

IN THE MUNICIPAL COURT OF  
HAMILTON COUNTY, OHIO

Regency Centers, L. P.  
8044 Montgomery Road, #520  
Cincinnati, OH 45236,

Plaintiff

vs.

Avalon Salon & Spa, Ltd.  
DBA Avalon Salon at Hyde Park Plaza  
Hyde Park Plaza  
3848 Paxton Avenue  
Cincinnati, OH 45209

Defendant.

Case No. \_\_\_\_\_

Judge \_\_\_\_\_

13 CV 00516

2013 JAN - 9 A 10:39

TRACY E. BROWN  
CLERK OF COURT  
HAMILTON COUNTY, OH

CERT. MAIL  
O.M. WAIVER  
RESIDENCE SERV.

JAN 25 2013

**COMPLAINT IN FORCIBLE ENTRY AND DETAINER**

For its Complaint against Defendant, Avalon Salon & Spa, Ltd., Plaintiff, Regency Centers, L. P., hereby states as follows:

1. Plaintiff, Regency Centers, L.P. ("Landlord"), is a Delaware limited partnership engaged in the business of letting commercial properties in Hamilton County, Ohio.
2. Tenant, Avalon Salon & Spa, Ltd. ("Tenant"), is an Ohio limited liability company with its principal place of business Hamilton County, Ohio.
3. On August 28, 2004, Landlord and Verve Spa and Salon DBA Verve Spa and Salon, as the named tenant, entered into a lease (hereinafter "the Lease") for certain premises at the Hyde Park Plaza, 3448 Paxton Avenue, Cincinnati, OH 45209 ("the Premises"). A copy of the Lease is attached hereto as Exhibit A.



D100540417

4. Tenant is the current lessee and the successor, by assignment, to the original named tenant under the Lease.

5. The term of the Lease expired on March 31, 2012. Following the expiration of the term of the Lease, Landlord sent to Tenant the letter dated April 3, 2012, attached hereto as Exhibit B, pursuant to which Landlord confirmed that Tenant's continued occupancy of the Premises, following the expiration of the term of the Lease, would be on a month to month basis.

6. By letter dated November 28, 2012, Landlord terminated the month to month tenancy of Tenant effective as of December 31, 2012. A copy of the letter terminating the month to month tenancy of the of Tenant is attached hereto as Exhibit C .

7. Despite the termination of its month to month tenancy, Tenant remained in possession of the Premises beyond the said effective termination date. As a result thereof, on January 2, 2013, Landlord notified Tenant to leave the Premises by delivering such notice at the Premises. A copy of such notice is attached hereto as Exhibit D.

8. Tenant has, since the 8th day of January, 2013, does still unlawfully and forcibly detain from Landlord possession of the Premises.

WHEREFORE, Plaintiff demands dispossession of Tenant from the Premises and an order granting restitution of the Premises in favor of Plaintiff, plus the cost and expenses incurred herein by Plaintiff, including a reasonable attorney fee.

Respectfully submitted,



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Keith A. Kavinsky (0059796)

Michael R. Szolosi, Jr. (0065175)

GALLAGHER & KAVINSKY, L.P.A.

8740 Orion Place, Suite 200

Columbus, Ohio 43240

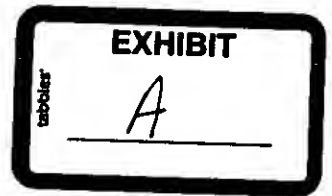
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*Attorneys for Plaintiff, Regency Centers, L. P.*



# SHOPPING CENTER LEASE

Between  
Regency Centers, L.P.  
(Landlord)

And

Verve Spa and Salon  
D/B/A Verve Spa and Salon  
(Tenant)

At

Hyde Park

Dated 7/28/04

**HYDE PARK  
SHOPPING CENTER LEASE**

THIS LEASE, made as of the 28<sup>th</sup> day of August, 2004, by and between Regency Centers, L.P., a Delaware Limited Partnership (herein called "Landlord"), and Verve Spa and Salon, an Ohio corporation (herein called "Tenant").

In consideration of the obligations of Tenant to pay rent and other charges as herein provided and in consideration of the other terms, covenants and conditions hereof, Landlord hereby leases to Tenant and Tenant hereby leases from Landlord the premises described herein for the term and subject to the terms and conditions set forth herein.

**ARTICLE 1. INTRODUCTORY PROVISIONS**

**1.1 FUNDAMENTAL LEASE PROVISIONS.**

Certain fundamental provisions are presented in this Section in summary form to facilitate convenient reference by the parties hereto:

- | (a) Tenant's Trade Name                  | Verve Spa and Salon<br>(Section 7.1)   |   |                           |   |                          |        |            |         |             |
|--|--|---|---------------------------|---|--------------------------|--------|------------|---------|-------------|
| (b) Term                                 | Sixty (60) months<br>(Section 3.1)   |   |                           |   |                          |        |            |         |             |
| (c) Premises Space Number                | 26<br>(Exhibit "B" - Part 2)   |   |                           |   |                          |        |            |         |             |
| (d) GLA in Premises                      | 4,642 square feet<br>(Section 1.5)   |   |                           |   |                          |        |            |         |             |
| (e) GLA in Landlord's Building           | 397,893 square feet<br>(Section 1.5)   |   |                           |   |                          |        |            |         |             |
| (f) Tenant's Proportionate Share         | Tenant's proportionate share shall be defined as the percentage that the gross leasable area ("GLA") of the Premises bears to the entire gross leasable area of Landlord's Building except as hereinafter provided. In determining Tenant's Proportionate Share of Common Area Costs and contribution for Taxes and Insurance, Landlord may exclude from the GLA of the Landlord's Building any premises containing 7,500 or more square feet of GLA if the lease for such premises does not require the applicable tenant to pay a pro-rata share of Common Area Costs, Taxes or Insurance, but in that event, Landlord shall deduct from the Common Area Costs, Taxes or Insurance any amounts payable by any such tenants specifically for items included in the Common Area Costs, Taxes or Insurance. |   |                           |   |                          |        |            |         |             |
| (g) Minimum Annual Rent:                 | <table border="0"><thead><tr><th>Months</th><th>Minimum Rent<br/>(Monthly)</th><th>Minimum Rent<br/>(Per Sq. ft. of<br/>GLA)</th><th>Minimum Rent<br/>(Annual)</th></tr></thead><tbody><tr><td>1 - 60</td><td>\$6,189.33</td><td>\$16.00</td><td>\$74,272.00</td></tr></tbody></table> plus applicable sales tax (Section 4.2)   | Months                                  | Minimum Rent<br>(Monthly) | Minimum Rent<br>(Per Sq. ft. of<br>GLA) | Minimum Rent<br>(Annual) | 1 - 60 | \$6,189.33 | \$16.00 | \$74,272.00 |
| Months                                   | Minimum Rent<br>(Monthly)  | Minimum Rent<br>(Per Sq. ft. of<br>GLA) | Minimum Rent<br>(Annual)  |   |                          |        |            |         |             |
| 1 - 60                                   | \$6,189.33   | \$16.00                                 | \$74,272.00               |   |                          |        |            |         |             |
| (h) Percentage Rent                      | N/A  |   |                           |   |                          |        |            |         |             |
| (i) Commencement Date                    | The earlier of (i) ninety (90) days after the date of Landlord's delivery of the Premises to Tenant, or (ii) the date on which Tenant first opens for business in the Premises.<br>(Section 3.1)   |   |                           |   |                          |        |            |         |             |
| (j) Use                                  | The operation of a day spa and hair salon with incidental sales of related products<br>(Article 7)   |   |                           |   |                          |        |            |         |             |
| (k) Guarantor(s) (if none, so state)     | _____<br>(Exhibit D)   |   |                           |   |                          |        |            |         |             |
| (l) Default Rate:                        | The lesser of twelve percent (12.0%) per annum or the maximum lawful rate of interest permitted by applicable law  |   |                           |   |                          |        |            |         |             |
| (m) Security Deposit                     | N/A  |   |                           |   |                          |        |            |         |             |
| (n) Brokers                              | <u>THE CHEAPEST GUY</u>  |   |                           |   |                          |        |            |         |             |
| (o) Estimated Common Area Costs for 2004 | \$1.38<br>per square foot per annum (Article 8)<br>(Subject to annual adjustment)  |   |                           |   |                          |        |            |         |             |
| (p) Estimated Taxes for 2004             | \$2.41<br>per square foot per annum (Article 5)<br>(Subject to annual adjustment)  |   |                           |   |                          |        |            |         |             |

(q) Estimated Insurance for 2004 \$0.26  
per square foot per annum (Article 11)  
(Subject to annual adjustment)

(r) Advertising and Promotion Fund (if none, so state) N/A

(s) Estimated Initial Monthly Payments Required

Minimum Rent \$6,189.33

Additional Rent

Common Area Costs \$533.83

Taxes \$932.27

Insurance \$100.58

Advertising and Promotion Fund (if none, so state) N/A

Pylon Signage Fee (if none, so state) N/A

Satellite Fee (if none, so state) N/A

Total Monthly Additional Rent \$1,566.68

State and County Sales Tax \$0.00

Total Monthly Payment  
at Commencement Date \$7,756.01

(t) Address for Notice

To Landlord

c/o Regency Centers Corporation  
121 West Forsyth Street  
Suite 200  
Jacksonville, Florida 32202  
Attention: Lease Administrator

With a copy to:  
c/o Regency Centers Corporation  
121 West Forsyth Street  
Suite 200  
Jacksonville, Florida 32202  
Attention: Legal Department

With a copy to:  
c/o Regency Centers Corporation  
4380 Malsbary Road Suite 500  
Cincinnati, Ohio 45242  
Attention: Property Management

To Tenant:

Kim V. Blatt  
3302 Phoenix Avenue  
Cincinnati, Ohio 45211

## LEASE PROVISIONS

### **1.2 REFERENCES AND CONFLICTS.**

References appearing in Section 1.1 are to designate some of the other places in this Lease where additional provisions applicable to the particular Fundamental Lease Provisions appear. Each reference in this Lease to any of the Fundamental Lease Provisions contained in Section 1.1 shall be construed to incorporate all of the terms provided for under such provisions, and such provisions shall be read in conjunction with all other provisions of this Lease applicable thereto. If there is any conflict between any of the Fundamental Lease Provisions set forth in Section 1.1 and any other provision of this Lease, the latter shall control.

### **1.3 EXHIBITS.**

The following drawings and special provisions are attached hereto as exhibits and hereby made a part of this Lease:

- (a) Exhibit "A" - Legal Description of the Shopping Center Land as presently constituted
- (b) Exhibit "B" - Part 1 - Site plan of Shopping Center Land; and  
Part 2 - Leasing Plan. (The Premises is identified on the Leasing Plan.)
- (c) Exhibit "C" Description of Tenant's Work and work to be performed by Landlord, if any, in the Premises; and "C-1" Shopping Center Signage Criteria; and "C-2" Landlord's Work and
- (d) Exhibit "D" Guaranty Agreement (not an exhibit unless Guarantor is named in Section 1.1). "Guarantor" means the guarantor or guarantors named in Section 1.1.
- (e) Exhibit "E" Requirements & Restrictions
- (f) Exhibit "F" Tenant Improvements
- (g) Exhibit "G" UCC Financing Statement.
- (h) Exhibit "H" Intentionally Omitted.
- (i) Exhibit "I" Intentionally Omitted.

### **1.4 THE SHOPPING CENTER; LANDLORD'S BUILDING.**

The "Shopping Center" means the land described in Exhibit "A" and improvements thereon constituting an integrated retail shopping center, as the same may be modified from time to time throughout the Term of this Lease. The structure or structures shown on Exhibit "B" as "Landlord's Building," as the same may be altered, reduced or expanded from time to time throughout the Term of this Lease, is hereinafter called the "Landlord's Building." Landlord may at any time and from time to time change the shape, size, location, number, height and extent of the improvements in the Shopping Center and eliminate or add any improvements to any portion of the Shopping Center and add land thereto or eliminate land therefrom.

### **1.5 GROSS LEASABLE AREA.**

At the Commencement Date, GLA means, with respect to the Premises, the number of square feet set forth in Section 1.1(d) and, with respect to the Landlord's Building, the number of square feet set forth in Section 1.1(e). GLA will change with additions or deletions to the Landlord's Building and/or the Premises. The GLA is measured from the exterior face of exterior walls, the exterior face of service corridor walls and the centerline of interior demising walls. No deduction shall be made for columns, stairs, elevators or any internal construction or equipment.

## ARTICLE 2. PREMISES

### **2.1 LEASE OF PREMISES.**

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises for the Term, at the rent, and upon the terms, covenants and conditions herein set forth.

### **2.2 PREMISES DEFINED.**

The term "Premises" means the space situated in the Landlord's Building in the location marked on Exhibit "B" and shall consist of the space thereat within the walls, structural floor and the bottom of the roof of Landlord's Building.

### **2.3 DELIVERY OF PREMISES.**

Landlord agrees to deliver to Tenant, and Tenant agrees to accept from Landlord, possession of the Premises when Landlord advises Tenant in writing that the Landlord's Work in the Premises (if any) has been sufficiently completed to permit Tenant's Work to begin or when Tenant takes possession of the Premises, whichever first occurs. Landlord's notice thereof shall constitute delivery of the Premises without further act by either party. Landlord will deliver possession of the Premises to Tenant in its current "as-is" condition with the addition of only those items of work (if any) described on Exhibit "C". If Landlord encounters delays in delivering possession of the Premises to Tenant, this Lease will not be

void or voidable, nor will Landlord be liable to Tenant for any loss or damage resulting from such delay. If the delay in possession is caused by Tenant (including delays caused by Tenant's failure to supply the information referred to in the following sentence), then the date of Landlord's delivery of the Premises to Tenant shall be deemed to be the date such delivery would have occurred but for Tenant's delay. Notwithstanding the foregoing, Landlord will not be obligated to deliver possession of the Premises to Tenant until Landlord has received from Tenant all of the following: (i) a copy of this Lease fully executed by Tenant, and a Guaranty, if any, executed by the Guarantor(s); (ii) the Security Deposit and the first installment of Minimum Annual Rent; and (iii) copies of policies or certificates of insurance as required under Article 11 of this Lease. If Tenant occupies the Premises prior to the Commencement Date, such early occupancy shall be subject to all of the terms and conditions of this Lease, and Tenant will not interfere with Landlord in the completion of Landlord's work (if any). Landlord will give Tenant access for locks to be changed upon: (i) Tenant's acceptance of the Premises, (ii) Landlord's receipt of two sets of Plans and Specifications set forth in Exhibit "C", and (iii) Landlord's receipt of a copy of the contractor's insurance certificate. Tenant will pay all expenses associated with changing the locks.

#### **2.4 OPENING OF PREMISES.**

On or before ten (10) days after delivery of possession of the Premises to Tenant, Tenant shall commence the Tenant's Work specified in Exhibit "C", diligently and continually proceed to completion, and open for business on or before the Commencement Date specified in Section 1.1(i). By opening for business, Tenant shall be deemed to have acknowledged that all work (if any) required to be performed by Landlord in connection with the Premises and any and all other obligations to be performed by Landlord on or before the opening of the Premises have been fully performed, and that the Premises are at such time complete and in good, sanitary and satisfactory condition and repair without any obligation on Landlord's part to make any alterations, upgrades or improvements thereto.

### **ARTICLE 3. TERM**

#### **3.1 TERM OF THIS LEASE.**

The Term of this Lease shall commence on the Commencement Date specified in Section 1.1(i) and shall continue for the number of months set forth in Section 1.1(b).

### **ARTICLE 4. RENT**

#### **4.1 TENANT'S AGREEMENT TO PAY RENT.**

Tenant hereby agrees to pay Minimum Annual Rent and Additional Rent. The term "Rent" includes the Minimum Annual Rent and Additional Rent.

#### **4.2 MINIMUM RENT.**

The minimum amount of rent Tenant shall pay Landlord for each Lease Year is the amount set forth in Section 1.1(g) (the "Minimum Annual Rent"). Minimum Annual Rent for the period from the Commencement Date to the first day of the month following such date shall be prorated on a daily basis and shall be payable with and in addition to the first installment of Minimum Annual Rent.

The Minimum Annual Rent for each Lease Year shall be payable in twelve (12) equal monthly installments, in advance, on the first day of each calendar month. The first installment of Rent shall be due on Tenant's execution and delivery of this Lease to Landlord.

#### **4.3 LEASE YEAR DEFINED.**

The "First Lease Year" means the period beginning on the Commencement Date and ending on the last day of the twelfth full calendar month thereafter. "Lease Year" means each successive twelve (12) month period after the First Lease Year occurring during the Term.

#### **4.4 MONTHLY REPORTING.**

Tenant shall furnish to Landlord within twenty (20) days after the end of each calendar month during the Term a complete statement, certified by Tenant (or a responsible officer thereof if Tenant is a corporation or limited liability company), of the amount of Gross Sales made from the Premises during said month, the statement to be in such form and style and contain such details and breakdown as Landlord may require. Tenant shall also furnish to Landlord with each such monthly statement a copy of any sales tax report filed with any taxing authority.

#### **4.5 GROSS SALES.**

- (a) "Gross Sales" means the actual prices of all goods, wares, internet based sales and merchandise sold and the actual charges for all services performed by Tenant or by any subtenant, licensee, concessionaire or other person in, at, from, or arising out of the use of the Premises, whether wholesale or retail, whether for cash or credit, or otherwise, and includes the value of all consideration received or promised for any of the foregoing, without reserve or deduction for inability or failure to collect, including, but not limited to, sales and services: (i) where the orders therefor originate in, at, from or arising out of the use of the Premises, whether delivery or performance is made from the Premises or from some other place and regardless of the place of bookkeeping for, payment of, or collection of any account; or (ii) made or performed by mail, telephone, or telecopy orders received or filled in, at or from the Premises; or (iii) made or performed by means of mechanical and other vending devices in the



Premises; or (iv) which Tenant, or any subtenant, licensee, concessionaire or other person, in the normal and customary course of its business, would credit or attribute to its operation at the Premises or any part thereof. Any deposit not refunded shall be included in Gross Sales in the month in which such deposit is received.

- (b) The following shall be excluded from Gross Sales: (i) any exchange of merchandise between stores of Tenant when such exchange is made solely for the convenient operation of Tenant's business and not for the purpose of consummating a sale made in, at or from the Premises; (ii) returns to shippers or manufacturers; (iii) cash or credit refunds to customers on transactions previously reported as Gross Sales; (iv) sales of fixtures, machinery and equipment, which are not stock in trade, after use thereof in the conduct of Tenant's business; and (v) amounts which are separately stated and collected from customers and which are paid by Tenant to any government for any sales or excise tax. No franchise, capital stock tax, tax based upon assets or net worth or gross receipts tax, and no income or similar tax based on income or profits shall be deducted from Gross Sales.

#### **4.6 ADDITIONAL RENT.**

Tenant shall pay, as additional rent (herein sometimes collectively called "Additional Rent"), all sums of money or charges of whatsoever nature (except Minimum Annual Rent and Percentage Rent if any) required to be paid by Tenant to Landlord pursuant to this Lease, whether or not the same is designated as "Additional Rent."

#### **4.7 WHERE RENT PAYABLE AND TO WHOM; NO DEDUCTION; LATE CHARGE.**

All Rent payable by Tenant under this Lease shall be paid to Landlord on or before the first day of each month without prior notice or demand therefor (except where such prior demand is expressly provided for in this Lease), without any deductions, set offs or counterclaims whatsoever, at the place to which notices are to be sent to Landlord or to such payee and at such place as may be designated by Landlord. If any payment of Rent or other charges due hereunder is not received by Landlord in good funds on its due date, Tenant will pay to Landlord a late charge of five percent (5%) of the amount due.

### **ARTICLE 5. TAXES AND ASSESSMENTS**

#### **5.1 TENANT'S PROPORTIONATE SHARE OF TAXES AND PAYMENT.**

Tenant shall pay to Landlord, as Additional Rent, Tenant's Proportionate Share of all real estate, current and future, and other ad valorem taxes and assessments of every kind and nature with respect to the Shopping Center ("Taxes"). In the event any assessments may be paid in annual installments, only the amount of such annual installment and statutory interest shall be included within the computation of the annual Taxes for the Lease Year in question. Tenant shall pay its Proportionate Share of Taxes at the times and in the manner provided in Section 8.6.

#### **5.2 RENT TAX.**

Should any governmental taxing authority acting under any present or future law, ordinance or regulation levy, assess or impose a tax, excise or assessment (other than an income or franchise tax) upon or against or measured by the Rent, or any part of it, Tenant shall pay such tax, excise and/or assessment when due or shall on demand reimburse Landlord for the amount thereof, as the case may be.

#### **5.3 PERSONAL PROPERTY TAXES.**

Tenant shall be liable for, and shall pay before delinquency, all taxes and assessments (real and personal) levied against (a) any personal property or trade fixtures placed by Tenant in or about the Premises (including any increase in the assessed value of the Premises based upon the value of any such personal property or trade fixtures), and (b) any Tenant improvements or alterations in the Premises (whether installed and/or paid for by Landlord or Tenant). If any such taxes or assessments are levied against Landlord or Landlord's property, Landlord may, after written notice to Tenant (and under proper protest if requested by Tenant), pay such taxes and assessments, and Tenant shall reimburse Landlord therefor within ten (10) days after demand by Landlord; provided, however, Tenant, at its sole cost and expense, shall have the right, with Landlord's cooperation, to bring suit in any court of competent jurisdiction to recover the amount of any such taxes and assessments so paid under protest.

### **ARTICLE 6. TENANT'S CONDUCT OF BUSINESS**

#### **6.1 HOURS.**

Tenant agrees that, from and after the Commencement Date, Tenant will continuously and uninterruptedly keep open and operate its entire store in the Premises for the purpose specified in Section 1.1(j) and under the trade name specified in Section 1.1(a) with the public daily during such hours as are customary in the Shopping Center.

### **ARTICLE 7. USE OF PREMISES**

#### **7.1 SOLE USE AND TRADE NAME.**

Tenant shall use the Premises for the purpose specified in Section 1.1(j) and for no other purpose whatsoever and shall conduct its business in the Premises solely under the trade name specified in Section 1.1(a). Nothing in this Lease shall be construed to grant Tenant an exclusive right to the purpose specified in Section 1.1(j) or any other purpose or use. Tenant shall procure, at Tenant's sole expense,

any permits or licenses required for the transaction of business in the Premises.

## **7.2 REQUIREMENTS AND RESTRICTIONS.**

Tenant agrees to comply with the requirement and restrictions set forth on Ex. E attached hereto.

## **ARTICLE 8. COMMON AREAS**

### **8.1 MAINTENANCE.**

Landlord agrees to maintain, as part of Common Area Costs, the Common Areas including the roof in good condition; provided, however, that the manner in which the Common Areas shall be maintained shall be solely determined by Landlord. If any owner or tenant of any portion of the Shopping Center maintains Common Areas located upon its parcel or premises (Landlord shall have the right, in its sole discretion, to allow any purchaser or tenant to so maintain Common Areas located upon its parcel or premises and to be excluded from participation in the payment of Common Area Costs), Landlord shall not have any responsibility for the maintenance of that portion of the Common Areas and Tenant shall have no claims against Landlord arising out of any failure of such owner or tenant to so maintain its portion of the Common Areas.

### **8.2 COMMON AREAS DEFINED.**

"Common Areas" means all areas, facilities, and improvements provided in the Shopping Center for the convenience and use of patrons of the Shopping Center, and shall include, but not be limited to, all areas, all parking areas and facilities, sidewalks, stairways, service corridors, truckways, ramps, loading docks, delivery areas, landscaped areas, access and interior roads, lighting facilities and similar areas and facilities situated within the Shopping Center which are not reserved for the exclusive use of any Shopping Center occupants.

### **8.3 LANDLORD'S CONTROL.**

Landlord shall at all times have the sole and exclusive control, management and direction of the Common Areas and the right to make reasonable changes to the Common Areas, and may at any time exclude and restrain any person from use or occupancy thereof. The rights of Tenant in and to the Common Areas are subject to the rights of others to use the same in common with Tenant. Landlord may at any time and from time to time close all or any portion of the Common Areas to make repairs, improvements, alterations or changes and, to the extent necessary in the opinion of Landlord, to prevent a dedication thereof or the accrual of any rights to any person or to the public therein.

### **8.4 EMPLOYEE PARKING.**

Landlord may from time to time designate a particular parking area or areas to be used by its tenants and their employees. If Tenant or any of its employees fail to park their vehicle in any such designated parking areas, Landlord, in its sole discretion, may give Tenant notice of such violation and, if the violation is not corrected within two (2) days after said notice is given, Tenant shall pay to Landlord an amount equal to Ten Dollars (\$10.00) per day for each violating vehicle calculated from and including the day on which notice was given, to and including the day when all violations by Tenant and its employees cease. In no event, however, shall Landlord be required to enforce any parking obligation stated herein.

### **8.5 COMMON AREA COSTS.**

"Common Area Costs" means all costs incurred in a manner deemed by Landlord to be reasonable and appropriate and for the best interests of the Shopping Center in connection with the management, operation, maintenance, replacement and repair of the Common Areas, including but not limited to security, landscaping, utilities, painting, striping, lighting, management fee (4% of gross revenues) and pest control among other items.

### **8.6 TENANT'S PROPORTIONATE SHARE OF COMMON AREA COSTS, TAXES AND INSURANCE.**

Tenant agrees to pay to Landlord, as Additional Rent, Tenant's Proportionate Share of Common Area Costs, Taxes and Insurance, (as hereinafter defined) in the following manner:

- (a) Tenant shall pay Landlord on the Commencement Date and on the first day of each calendar month of the Term thereafter an amount estimated by Landlord to be Tenant's monthly Proportionate Share of the Common Area Costs, Taxes and Insurance. Landlord may adjust said amount at the end of any calendar month on the basis of Landlord's experience and reasonably anticipated costs.
- (b) Within ninety (90) days following the end of each calendar year, or as soon as reasonably possible thereafter, Landlord shall endeavor to furnish Tenant a statement covering such year just ended, showing the Common Area Costs, Taxes and Insurance and the amount of Tenant's Proportionate Share of such costs for such year and the payments made by Tenant with respect to such year. If Tenant's Proportionate Share of such costs is less than Tenant's payments so made, Tenant shall be entitled to a credit of the difference or, if such share is greater than Tenant's said payments, Tenant shall pay Landlord the difference within thirty (30) days after receipt of such statement.
- (c) Any failure or delay by Landlord in delivering any estimated or final statement pursuant to this Section 8.6 shall not constitute a waiver of Landlord's right to receive

Tenant's payment of Tenant's Proportionate Share of Common Area Costs, Taxes and Insurance.

#### **ARTICLE 9. HAZARDOUS SUBSTANCES**

##### **9.1 RESTRICTION ON USE.**

Tenant shall not use or permit the use of the Premises for the generation, storage, treatment, use, transportation, handling or disposal of any chemical, material or substance which is regulated as toxic or hazardous or exposure to which is prohibited, limited or regulated by any governmental authority, or which, even if not so regulated, may or could pose a hazard to the health or safety of persons on the Premises or other tenants or occupants of the Shopping Center or property adjacent thereto, and no such chemical, material or substance shall be brought unto the Premises without the Landlord's express written approval. Tenant agrees that it will at all times observe and abide by all laws and regulations relating to the handling of such materials and will promptly notify Landlord of (a) the receipt of any warning notice, notice of violation, or complaint received from any governmental agency or third party relating to environmental compliance and (b) any release of hazardous materials on the Premises and/or Shopping Center. Tenant shall, in accordance with all applicable laws, carry out, at its sole cost and expense, any remediation required as a result of the release of any hazardous substance by Tenant or by Tenant's agents, employees, contractors or invitees, from the Premises and/or Shopping Center. In addition, Tenant shall immediately notify Landlord concerning any water intrusion or leakage in the Premises. Tenant shall provide Landlord with immediate access to the Premises in order to assess the damage. Repairs to the Premises shall be made by the party responsible. Should Tenant be responsible for the repairs and fail to correct immediately, Landlord shall make the repairs at Tenant's costs. Notwithstanding the foregoing, Tenant shall have the right to bring on to the Premises reasonable amounts of cleaning materials and the like necessary for the operation of the Tenant's business, but Tenant's liability with respect to such materials shall be as set forth in this Article.

##### **9.2 INDEMNIFICATION.**

To the fullest extent permitted by law, Tenant agrees to promptly indemnify, protect, defend and hold harmless Landlord and Landlord's partners, officers, directors, employees, agents, successors and assigns (collectively, "Landlord Parties") from and against any and all claims, damages, judgments, suits, causes of action, losses, liabilities, penalties, fines, expenses and costs (including, without limitation, clean-up, removal, remediation and restoration costs, sums paid in settlement of claims, attorneys' fees, consultant fees and expert fees and court costs) which arise or result from any environmental contamination on, in, under or about the Premises, Landlord's Building or any other portion of the Shopping Center and which are caused or permitted by Tenant or any of Tenant's agents, employees, subtenants, assignees, licensees, contractors or invitees (collectively, "Tenant Parties").

##### **9.3 SURVIVAL.**

The provisions of this Article shall survive the termination of this Lease.

#### **ARTICLE 10. ALTERATIONS TO PREMISES**

##### **10.1 ALTERATIONS; DAMAGES.**

Tenant shall make no structural alterations, additions or changes in or to the Premises without Landlord's prior written consent and subject to the Conditions and Requirements for Alterations attached hereto as Ex. F.

##### **10.2 COMPLIANCE WITH LAWS.**

Any permitted changes, alterations and additions made by Tenant shall be performed strictly in accordance with applicable laws, rules, regulations and building codes relating thereto including, without limitation, the provisions of Title III of the Americans with Disabilities Act of 1990. Throughout the performance of Tenant's alterations, Tenant shall obtain, or cause its contractors to obtain, workers compensation insurance and commercial general liability insurance in form and substance satisfactory to Landlord, and name Landlord as an additional insured thereunder.

#### **ARTICLE 11. LIABILITY, INDEMNITY AND INSURANCE**

##### **11.1 LANDLORD'S LIABILITY.**

Landlord shall not be liable for any damage or liability of any kind or for any injury to or death of any persons or damage to any property on or about the Premises from any cause whatsoever, except to the extent any such matter is not covered by insurance required to be maintained by Tenant under this Lease and is attributable to Landlord's gross negligence or willful misconduct.

##### **11.2 INDEMNIFICATION BY TENANT.**

Tenant hereby agrees to indemnify and save Landlord harmless from all claims, actions, judgments, suits, losses, fines, penalties, demands, costs and expenses and liability whatsoever, including reasonable attorneys' fees, expert fees and court costs ("Indemnified Claims") on account of (i) any damage or liability occasioned in whole or in part by any use or occupancy of the Premises or by any act or omission of Tenant or the Tenant Parties, (ii) the use of the Premises and Common Areas and conduct of Tenant's business by Tenant or any Tenant Parties, or any other activity, work or thing done, permitted or suffered by Tenant or any Tenant Parties, in or about the Premises, Landlord's Building or elsewhere on the Shopping Center; and/or (iii) any default by Tenant of any obligations on Tenant's part to be performed under the terms of this Lease. In case any action or proceeding is brought against Landlord or any

Landlord Parties by reason of any such Indemnified Claims, Tenant, upon notice from Landlord, shall defend the same at Tenant's expense by counsel approved in writing by Landlord, which approval shall not be unreasonably withheld. Tenant shall not be liable for damage or injury occasioned by the gross negligence or willful acts of the Landlord or its agents, contractors, servants or employees unless such damage or injury arises from perils against which Tenant is required by this Lease to insure and then only to the extent of such insurance. Tenant's indemnification obligation under this Section 11.2 shall survive the expiration or earlier termination of this Lease. Tenant's covenants, agreements and indemnification in Sections 11.1, 11.2 and 11.7, are not intended to and shall not relieve any insurance carrier of its obligations under policies required to be carried by Tenant pursuant to the provisions of this Lease.

### 11.3 INSURED'S WAIVER.

In the event of loss or damage to the property of Landlord or Tenant, each party will look first to its own insurance before making any claim against the other. To the extent possible, each party shall obtain, for all policies of insurance required by this Lease, provisions permitting waiver of subrogation against the other party, and each party, for itself and its insurers, hereby waives the right to make any claim against the other (or its agents, employees or insurers) for loss or damage covered by the insurance requirements of this Lease.

### 11.4 TENANT'S INSURANCE.

- (a) Tenant agrees that, from and after the date of delivery of the Premises to Tenant, Tenant will carry at its sole cost and expense the following types of insurance, in the amounts specified and in the form hereinafter provided for:

1. Public Liability and Property Damage Insurance covering the Premises and Tenant's use thereof against claims for personal injury or death and property damage occurring upon, in or about the Premises, such insurance to afford protection to the limit of not less than \$1,000,000.00 in respect of injury or death of any number of persons arising out of any one occurrence and such insurance against property damage to afford protection to the limit of not less than \$500,000.00 in respect to any instance of property damage. The insurance coverage required under this Section 11.4(a)1 shall, in addition, extend to any liability of Tenant arising out of the indemnities provided for in Section 11.2; and

2. Tenant Improvements and Property Insurance covering all of the items included in Tenant's Work, Tenant's leasehold improvements, heating, ventilating and air conditioning equipment, trade fixtures, signage and personal property from time to time in, on or upon the Premises and, to the extent not covered by Landlord's similar insurance, alterations, additions or changes made by Tenant pursuant to Article 10, in an amount not less than their full replacement cost, providing protection against perils included within standard forms of all risk coverage insurance policy, together with such other coverage the Landlord deems appropriate (i.e. flood and/or earthquake). Any policy proceeds from such insurance shall be held in trust by Tenant for the repair, reconstruction, restoration or replacement of the property damaged or destroyed, unless this Lease shall cease and terminate under the provisions of Article 12.

- (b) All policies of insurance provided for in Section 11.4(a) shall be issued in form acceptable to Landlord by insurance companies with general policyholder's rating of not less than A and a financial rating of Class VI as rated in the most currently available "Best's Insurance Reports" and qualified to do business in the state in which the Premises is located. Each such policy shall be issued in the names of Landlord and Tenant and any other parties in interest from time to time designated in writing by notice by Landlord to Tenant. Said policies shall be for the mutual and joint benefit and protection of Landlord and Tenant and executed copies of each such policy of insurance or a certificate thereof shall be delivered to Landlord within ten (10) days after delivery of possession of the Premises to Tenant and thereafter within thirty (30) days prior to the expiration of each such policy. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Tenant in like manner and to like extent. All such policies of insurance shall contain a provision that the company writing said policy will give Landlord at least thirty (30) days' notice in writing in advance of any cancellation, or lapse, or the effective date of any reduction in the amounts, or insurance. All such public liability, property damage and other casualty policies shall be written as primary policies which do not contribute to any policies which may be carried by Landlord. All such public liability and property damage policies shall contain a provision that Landlord, although named as an insured, shall nevertheless be entitled to recover under said policies for any loss occasioned to it, its servants, agents and employees by reason of the negligence of Tenant. Any insurance provided for in Section 11.4(a) may be effected by a policy of blanket insurance, covering additional items or locations or insureds; provided, however, that (i) Landlord shall be named as an additional insured thereunder as its interest may appear; (ii) the coverage afforded Landlord will not be reduced or diminished by reason of the use of such blanket policy of insurance; (iii) any such policy or policies (except any covering the risks referred to in Section 11.4(a)1) shall specify therein (or Tenant shall furnish Landlord with a written statement from the insurers under such policy specifying) the amount of the

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total insurance allocated to the "Tenant Improvements and Property" more specifically detailed in Section 11.4(a)(2); and (iv) the requirements set forth herein are otherwise satisfied. Tenant agrees to permit Landlord at all reasonable times to inspect the policies of insurance of Tenant covering risks upon the Premises for which policies or copies thereof are not delivered to Landlord.

#### **11.5 LANDLORD'S INSURANCE.**

- (a) Landlord shall, as part of the Common Area Costs, at all times during the Term maintain in effect a policy or policies of insurance covering the Landlord's Building and the Common Areas (excluding Tenant improvements and property required to be insured by Tenant pursuant to Section 11.4(a)) in an amount not less than the full replacement cost (exclusive of the cost of excavations, foundations and footings), providing protection against perils included within standard forms of fire and extended coverage insurance policies, together with insurance against sprinkler damage, vandalism, and malicious mischief, and such other risks as Landlord may from time to time determine and with any such deductibles as Landlord may from time to time determine and public liability insurance in such amounts as Landlord deems to be reasonable. Any insurance provided for in Sections 11.5(a) or (b) may be effected by a policy or policies of blanket insurance, covering additional items or locations or insureds, provided that the requirements of Section 11.5(a) are otherwise satisfied. In addition, at Landlord's option, Landlord may elect to self-insure all or any part of such required insurance coverage. Landlord may, but shall not be obligated to, carry any other form or forms of insurance as Landlord or the mortgagees or ground lessors of Landlord may reasonably determine is advisable. All insurance required hereunder may be referred to as "Insurance".
- (b) Landlord may carry rent insurance with respect to the Premises in an aggregate amount equal to eighteen (18) or more times the sum of (i) the monthly requirement of Minimum Annual Rent, plus (ii) the sum of the amounts estimated by Landlord to be payable by Tenant for Additional Rent and Percentage Rent for the month immediately prior to the month in which the policy is purchased or renewed.
- (c) Tenant agrees to pay Tenant's Proportionate Share of premiums for the Insurance provided pursuant to Section 8.6 of this Lease. Tenant shall have no rights in any Insurance maintained by Landlord nor shall Tenant be entitled to be a named insured thereunder.

#### **11.6 COMPLIANCE WITH INSURANCE AND GOVERNMENTAL REQUIREMENTS.**

Tenant agrees at its sole cost and expense, to comply with all reasonable recommendations and requirements with respect to the Premises, or its use or occupancy, of the insurance underwriters and any similar public or private body, and any governmental authority having jurisdiction over insurance rates with respect to the use or occupancy of the Shopping Center. Tenant shall not do or suffer to be done anything upon or in the Premises which will contravene Landlord's policies of insurance or cause an increase in Landlord's insurance rates.

#### **11.7 LIMIT OF LANDLORD'S RESPONSIBILITY.**

Except to the extent such matter is not covered by the insurance required to be maintained by Tenant under this Lease and is attributable to the gross negligence or willful misconduct of Landlord, Landlord shall not, without limiting the generality of Section 11.1 hereof, be responsible or liable to Tenant or the Tenant Parties for any loss or damage that may be occasioned by or through the acts or omissions of persons occupying space in any other part of the Shopping Center, or for any loss or damage resulting to the Tenant or its property from bursting, stoppage or leaking of water, gas, sewer or steam pipes or for any damage caused by water leakage from any part of the Premises or from the pipes, appliances or plumbing works or from the roof, street or subsurface or from any other places or by dampness or by any other cause of whatsoever nature, or loss of property within the Premises from any cause whatsoever or any damage caused by other tenants or persons in the Premises, occupants of adjacent property of the Shopping Center, or the public, or caused by construction of any private, public or quasi-public work.

### **ARTICLE 12. DESTRUCTION**

#### **12.1 DESTRUCTION.**

Subject to the provisions of 12.2, 12.3 and 12.4 below, if the Premises shall be damaged by any casualty, Landlord shall promptly restore same to their condition immediately prior to the occurrence of the damage to the extent of insurance proceeds received, and the Minimum Rent and other charges shall be abated proportionately as to that part of the Premises rendered untenable.

#### **12.2 LANDLORD'S ELECTION.**

If the Premises (i) are rendered wholly untenable, or (ii) are substantially damaged (i.e., the cost to repair or replace exceeds 50% of their value) as a result of a risk which is not covered by Landlord's insurance, or (iii) are substantially damaged during the last year of the term or of any renewal term hereof, regardless of insurance coverage, or (iv) the building of which they are a part (whether the Premises are damaged or not), or all of the buildings which then comprise the Shopping Center, are damaged to the extent of fifty percent (50%) or more of the value thereof, so that the Shopping Center

cannot in the reasonable judgment of Landlord be operated as an integral unit or (v) the holder of any mortgage, deed of trust or other lien requires the use of all or any part of Landlord's insurance proceeds in satisfaction of all or a part of this indebtedness secured by any such mortgage, deed of trust or other lien, then or in any of such events, Landlord may either elect to repair the damage to the extent of insurance proceeds received or may cancel this Lease by notice of cancellation within ninety (90) days after such event, (whereupon this Lease shall expire and Tenant shall vacate and surrender the Premises to Landlord). Tenant's liability for rent, subject to the provisions regarding abatement of minimum rent contained above, shall continue until the date of termination of this Lease.

### 12.3 TENANT'S ELECTION.

If Landlord fails to commence the restoration within one-hundred twenty (120) days after the casualty and such delay is not caused by Tenant (or any Tenant Parties) or any events of force majeure, Tenant shall have the right to terminate this Lease by notice to Landlord given prior to Landlord's commencement of construction. In addition, Tenant shall have the right to terminate this Lease by giving written notice to Landlord of exercise thereof within one hundred twenty (120) days after the date Landlord's Building is damaged or destroyed if:

- (a) no part of the Premises remains tenantable after damage or destruction thereof from any cause; or,
- (b) the damage or destruction of the Landlord's Building occurs within the last twelve (12) months of the Term.

### 12.4 REPAIR, ETC.

In the event Landlord elects to repair the damage, any abatement of rent shall end the earlier of (i) sixty (60) days after notice by Landlord to Tenant that the Premises have been repaired or (ii) the date Tenant reopens the damaged Premises for business. Unless this Lease is terminated by Landlord, Tenant shall refixture the Premises in a manner and to a condition equal to that existing prior to its destruction or casualty, and the proceeds of all insurance carried by Tenant on its property and improvements shall be held in trust by Tenant for the purpose of said repair and replacement.

## ARTICLE 13. MAINTENANCE OF PREMISES

### 13.1 LANDLORD'S DUTY TO MAINTAIN.

Landlord will, as part of the Common Area Costs, keep the exterior walls, structural columns and structural floor or floors (excluding outer floor and floor coverings, walls installed at the request of Tenant, doors, windows and glass) in good repair. Notwithstanding the foregoing provisions of this Section, Landlord shall not in any way be liable to Tenant on account of its failure to make repairs unless Tenant shall have given Landlord written notice and afforded Landlord a reasonable opportunity to effect the same after such notice.

### 13.2 TENANT'S DUTY TO MAINTAIN.

Tenant will, at its own cost and expense, maintain the Premises (except that part Landlord has agreed to maintain) in good and tenantable condition, and make all repairs to the Premises and every part thereof as needed. Tenant's obligations under this Section shall include, but not be limited to, modifying, repairing and maintaining items as are required by any governmental agency having jurisdiction thereof (whether the same is ordinary or extraordinary, foreseen or unforeseen), interior walls and glass, and the interior portions of exterior walls, ceilings, utility meters, pipes and conduits within the Premises, and all utility meters, and all pipes and conduits outside the Premises between the Premises and the service meter, all fixtures, HVAC equipment (whether such HVAC equipment is located inside or outside the Premises) in compliance with all Laws including environmental, sprinkler equipment and other equipment within the Premises, the store fronts and all exterior glass, all of Tenant's signs, locks and closing devices, and all window sashes, casement or frames, doors and door frames; provided that Tenant shall make no adjustment, alteration or repair of any part of any sprinkler or sprinkler alarm system in or serving the Premises without Landlord's prior approval. Tenant shall contract with a service company approved by Landlord for the preventive maintenance of the HVAC and a copy of the service contract (which contract shall be subject to Landlord's approval) shall be furnished by Tenant to Landlord within ten (10) days after Tenant's opening for business, and a copy of any subsequent contract shall be furnished by Tenant to Landlord within ten (10) days after the same becomes effective. Such service contract must provide for at least four (4) visits, inspections and services each year and the regular changing of filters. All broken glass, both exterior and interior, shall be promptly replaced by Tenant with glass of the same kind, size and quality. Tenant shall permit no waste, damage or injury to the Premises and Tenant shall initiate and carry out a program of regular maintenance and repair of the Premises, including the painting or refinishing of all areas of the interior and the store front, so as to impede, to the extent possible, deterioration by ordinary wear and tear and to keep the same in attractive condition. Tenant will not overload the electrical wiring serving the Premises and will install, at its expense, with Landlord's written approval, any additional electrical wiring required in connection with Tenant's apparatus. Landlord shall be under no obligation to make any repairs, replacements, reconstruction, alterations, or improvements to or upon the Premises or the mechanical equipment exclusively serving the Premises except as expressly provided for herein.

### 13.3 LANDLORD'S RIGHT OF ENTRY AND USE.

Landlord and its authorized representatives may enter the Premises at any and all times during usual business hours of the Shopping Center occupants for the purpose of inspecting or repairing the same.

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Landlord has right to lock any tenant space that has began construction without Landlord's authority or approval.

#### 13.4 CONFLICTS.

If there is a conflict between the provisions of this Article 13 and Article 12, the provisions of Article 12 shall govern.

### ARTICLE 14. UTILITIES AND GARBAGE DISPOSAL

#### 14.1 GAS, GARBAGE DISPOSAL, WATER, SANITARY SEWER, TELEPHONE AND ELECTRIC SERVICE.

Tenant shall pay for all utilities and sanitary services used within the Premises and make such deposits or pay such permits required by the utility or sanitary service company providing the same. Landlord shall not be liable for any interruption or failure whatsoever in utility services, nor shall any such failure or interruption constitute an actual or constructive eviction of Tenant from the Premises or result in or give rise to any abatement in any Rent reserved hereunder. Upon written request from Landlord, Tenant will, at Tenant's expense, contract with the service company designated by Landlord for the disposal of all trash and garbage from the Premises. Tenant will furnish to Landlord a copy of such contract prior to opening for business, and a copy of each renewal of such contract shall be furnished to Landlord at least seven (7) days prior to the expiration of the existing contract. Landlord shall have the right to designate vendors to provide utility services and garbage collection services to the Premises, provided the cost of such service is generally competitive in the vicinity of the Shopping Center.

### ARTICLE 15. LIENS

#### 15.1 NO LIENS PERMITTED; DISCHARGE.

The Landlord's property shall not be subject to liens for work done or materials used on the Premises made at the request of, or on order of or to discharge an obligation of, Tenant. This paragraph shall be construed so as to prohibit, in accordance with the provisions of State law, the interest of Landlord in the Premises or any part thereof from being subject to any lien for any improvements made by Tenant or any third-party on Tenant's behalf (except Landlord) to the Premises. If any lien or notice of lien on account of an alleged debt of Tenant or any notice of lien by a party engaged by Tenant or Tenant's contractor or materialmen to work on the Premises shall be filed against the Shopping Center or any part thereof, Tenant, within ten (10) days after notice of the filing thereof, will cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Tenant shall fail to cause such lien or notice of lien to be discharged and released of record within the period aforesaid, then, in addition to any other right or remedy, Landlord may discharge the same either by paying the amounts claimed to be due or by procuring the discharge of such lien by deposit or by bonding procedures. Any amount so paid by Landlord and all costs and expenses, including attorneys' fees and court costs, incurred by Landlord in connection therewith, and including interest at the Default Rate, shall constitute Additional Rent and shall be paid by Tenant to Landlord on demand, or be deducted from Tenant Allowance monies owed to Tenant by Landlord.

### ARTICLE 16. SIGNAGE

Tenant shall at its own expense erect a sign on the exterior sign band of the Premises, which sign shall: (i) conform to the general material, size and appearance of other tenants' signs at the Shopping Center, (ii) be in strict conformity with any guidelines or sign criteria adopted by Landlord with respect to the Shopping Center, including, without limitation, the sign criteria set forth in Exhibit C1 attached hereto and made a part hereof, (iii) be in accordance with all applicable laws, (iv) be installed by a contractor or other party which meets with Landlord's prior approval, and (v) be otherwise subject to Landlord's prior written approval. Landlord will not be liable to Tenant or any Tenant's contractor or city requirements pertaining to signage. If at any time during the Term, Landlord determines to replace the sign above the exterior of the Premises in connection with a general renovation of the Shopping Center or otherwise, then Tenant shall pay (or reimburse to Landlord, as the case may be) the cost of replacing such sign.

### ARTICLE 17. ASSIGNMENT AND SUBLETTING

#### 17.1 RESTRICTIONS ON ASSIGNMENT.

Tenant shall have no right to transfer, assign, sublet, enter into license or concession agreements, or mortgage or hypothecate this Lease or the Tenant's interest in the Premises or any part thereof without Landlord's consent, which shall not be unreasonably withheld or denied. Any attempted transfer, assignment, subletting, license or concession agreement, or hypothecation shall be void and confer no rights upon any third person and shall be a violation of this Section. Any transfer of this Lease from Tenant by merger, consolidation, liquidation or otherwise by operation of law, including, but not limited to, an assignment for the benefit of creditors, shall be included in the term "assignment" for the purposes of this Lease and shall be a violation of this Section. Landlord may deny its consent to assignment without cause or justification and may impose such conditions upon the granting of its consent as it may deem appropriate, including, without limitation, requiring the assignee to agree to new or different terms. To review any proposed assignment Landlord will require sixty (60) days to review tenant's submission of (i) the name of the entity receiving such transfer (the "Transferee"); (ii) a detailed description of the business of the Transferee, (iii) audited financial statements of the Transferee; (iv) all written agreements governing the transfer; and (v) any information reasonably requested by the Landlord with respect to the transfer or the Transferee; and (vi) a fee of fifteen hundred dollars (\$1,500.00) to compensate Landlord for legal

fees, costs of administration, and other expenses incurred in connection with the review and processing of such documentation. Notwithstanding the foregoing, Landlord's consent will not be deemed unreasonably withheld should Tenant request an assignment of this lease within the first eighteen (18) months of the initial lease term.

**17.2 NO RELEASE.**

No Transfer will release Tenant of Tenant's obligations under this Lease or alter the primary liability of Tenant to pay the rent and to perform all other obligations to be performed by Tenant hereunder. Consent by Landlord to one transfer will not be deemed consent to any subsequent Transfer. In the event of default by any Transferee of Tenant or any successor Tenant in the performance of any of the terms hereof, Landlord may proceed directly against Tenant without the necessity of exhausting remedies against such Transferee or successor.

**17.3 CONSIDERATION PAID BY SUBLEASSEE OR ASSIGNEE:**

In the event that Landlord consents to a sublease and the rental due and payable by the sublessee (or a combination of the Rent payable under such Sublease plus any bonus or other consideration therefore or incident thereto) exceeds the Rent payable under this Lease, or if with respect to an assignment, permitted license or other transfer by Tenant permitted by Landlord, the consideration payable to Tenant by the assignee, licensee or other transferee exceeds the Rent payable under this Lease, then Tenant shall be bound and obligated to pay Landlord all such excess rental and other excess consideration within ten (10) days following receipt thereof by Tenant from such sublessee, assignee, licensee or other transferee as the case may be. Finally, in the event of any assignment or subletting, it is understood and agreed that all rentals paid to Tenant by an assignee or sublessee shall be received by Tenant in trust for Landlord, to be forwarded immediately to Landlord (to be applied as a credit and offset to Tenant's Rent obligations).

**17.4 CHANGE OF OWNERSHIP.**

If Tenant or any Guarantor is a corporation, unincorporated association or partnership, a transfer, assignment or hypothecation of any stock or interest in such corporation, limited liability company, association or partnership by any stockholder or partner so as to result in a change in the control thereof by the person, persons or entities owning a majority interest therein as of the date of this Lease, shall be deemed to be an assignment of this Lease. This provision shall not be applicable to Tenant or to any Guarantor if it is a corporation whose voting stock is listed on a national securities exchange (as defined in the Securities Exchange Act of 1934, as amended) or is traded in any recognized over-the-counter market.

**ARTICLE 18. DEFAULTS BY TENANT**

**18.1 EVENTS OF DEFAULT.**

The following shall each be deemed to be an event of default (each of which is sometimes referred to as an "Event of Default") in this Lease:

- (a) any part of the Rent required to be paid by Tenant under this Lease shall at any time be unpaid;
- (b) Tenant fails in the observance or performance of any of its other covenants, agreements or conditions provided for in this Lease, and said failure shall continue for a period of ten (10) days after written notice thereof from Landlord to Tenant (unless such failure cannot reasonably be cured within ten (10) days and Tenant shall have commenced to cure said failure within said ten (10) days and continues diligently to pursue the curing of the same, which cure shall occur no later than sixty (60) days from the date of such notice from Landlord);
- (c) Tenant fails, after the date on which it is required by this Lease to open the Premises for business with the public, to be open for business as required by this Lease, or vacates or abandons the Premises;
- (d) the estate created in Tenant or any guarantor hereof is taken in execution or by other process of law, or all or a substantial part of the assets of Tenant or any Guarantor hereof is placed in the hands of a liquidator, receiver or trustee (and such receivership or trusteeship or liquidation continues for a period of thirty (30) days), or Tenant or any such Guarantor makes an assignment for the benefit of creditors, or admits in writing that it cannot meet its obligations as they become due, or is adjudicated a bankrupt, or Tenant or any such Guarantor institutes any proceedings under any federal or state insolvency or bankruptcy law, or under any other act relating to the subject of bankruptcy wherein the Tenant or any such Guarantor seeks to be adjudicated as bankrupt, or to be discharged of its debts, or to effect a plan of liquidation, composition or reorganization, or should any involuntary proceedings be filed against Tenant or any such Guarantor under any such insolvency or bankruptcy law and such proceeding not be removed within ninety (90) days thereafter. If any insolvency proceedings, such as those referred to in this Section 18.1(d), are instituted against Tenant, the Premises shall not become an asset in any such proceedings;

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## 18.2 LANDLORD'S REMEDIES.

If any Event of Default occurs, Landlord may treat the occurrence of such Event as a breach of this Lease and, in addition to any and all other rights or remedies of Landlord in this Lease or by law or in equity provided Landlord shall have the option and right without further notice or demand to Tenant or any other person.

- (a) declare the Term ended and to enter the Premises and take possession thereof and remove all persons therefrom, and Tenant shall have no further claim thereon or thereunder;
- (b) bring suit for the collection of Rent as it accrues pursuant to the terms of this Lease and damages including consequential damages without canceling this Lease, and with or without entering into possession of the Premises;
- (c) retake possession of the Premises from Tenant by summary proceedings or otherwise, either with or without terminating this Lease, and to sue Tenant for an amount equal to the remaining Rent to become due during the Term (or any extension period then in effect) discounted to its present value at a discount rate equal to the U.S. Treasury Bill or Note rate with the closest maturity to the remaining term of the Lease as selected by Landlord. Landlord's damages shall include the actual or estimated costs of reletting and alteration, leasing commissions and other costs of Landlord in connection therewith. Alternatively, Landlord may, after such retaking of possession, relet the Premises or any portion thereof. Tenant shall pay to Landlord all monthly deficits in Rent after any such re-entry in monthly installments as the amounts of such deficits from time to time are ascertained. Such deficiency shall be calculated and paid monthly; Tenant shall have no right to any excess. Tenant shall also pay to Landlord any costs and expenses, including, but not limited to, brokerage commissions and attorneys' fees, incurred by Landlord in such reletting or in making such alterations and repairs not covered by the rental received from such reletting. Should Landlord enter or take possession of the Premises as aforesaid, Landlord shall have the right, but not the obligation, to remove all or any part of the personal property located therein and may place the same in storage at a public warehouse at the expense and risk of the owner or owners thereof.
- (d) Notwithstanding any other provision hereof, Landlord shall be obligated to use good faith efforts to reasonably mitigate damages suffered by it as a result of any Tenant default, and in the event Landlord has exercised its rights under the acceleration clause set forth in subparagraph 18.2 (c) above, Landlord shall remit to Tenant any duplicative amounts received pursuant to reletting activities.

## 18.3 ATTORNEYS' FEES AND COSTS.

In the event that any action, suit or other proceeding is initiated concerning or arising out of this Lease, the prevailing party shall recover all of such party's costs and attorneys' fees incurred in each and every action, suit or other proceeding, including any and all appeals or petitions therefrom from the non-prevailing party. As used herein, "attorneys' fees" shall mean the full and actual costs of any legal services actually rendered in connection with the matters involved, calculated on the basis of the usual fee charged by the attorney performing such services.

## 18.4 TENANT'S PROPERTY TO REMAIN.

If there is an Event of Default, all of the Tenant's fixtures, furniture, equipment, improvements, additions, alterations, and other personal property shall remain on the Premises and, in that event and continuing during the length of said default, Landlord shall have the right to take the exclusive possession of same and to use same, without cost, until all defaults are cured or, at its option, at any time during the Term to require Tenant to forthwith remove same.

## ARTICLE 19. LIMITATION OF LANDLORD'S LIABILITY

### 19.1 LANDLORD'S DEFAULT.

Except as otherwise provided in this Lease, Landlord shall be in default under this Lease if Landlord fails to perform any of its obligations hereunder and said failure continues for a period of thirty (30) days after written notice thereof from Tenant to Landlord (unless such failure cannot reasonably be cured within thirty (30) days and Landlord shall have commenced to cure said failure within said thirty (30) days and continues diligently to pursue the curing of the same). If Landlord defaults under this Lease and if, as a consequence of such default, Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the proceeds of sale received upon execution of such judgment against the right, title and interest of Landlord in the Shopping Center as the same may then be constituted and encumbered, and Landlord shall not be liable for any deficiency. In no event shall Tenant have the right to levy execution against any property of Landlord other than its interest in the Shopping Center. Upon any such uncured default by Landlord, Tenant may exercise any of its rights provided in law or at equity; provided, however: (a) Tenant shall have no right to offset or abate rent in the event of any default by Landlord under this Lease, except to the extent offset rights are specifically provided to Tenant in this Lease; (b) Tenant shall have no right to terminate this Lease; and (c) Tenant's rights and remedies hereunder shall be limited to the extent (i) Tenant has expressly waived in this Lease any of such rights or remedies and/or (ii) this Lease otherwise expressly limits Tenant's rights or remedies. Notwithstanding

anything contained in this Lease to the contrary, the obligations of Landlord under this Lease (including any actual or alleged breach or default by Landlord) do not constitute personal obligations of the individual partners, directors, officers, members or shareholders of Landlord or Landlord's partners, and Tenant shall not seek recourse against the individual partners, directors, officers, members or shareholders of Landlord or against Landlord's partners or any other persons or entities having any interest in Landlord, or any of their personal assets for satisfaction of any liability with respect to this Lease.

#### **19.2 TRANSFER OF LANDLORD'S INTEREST.**

In the event of the sale or other transfer of Landlord's interest in the Premises (except in the case of a sale-leaseback financing transaction in which Landlord is the lessee), Landlord shall transfer and assign to such purchaser or transferee the Security Deposit whereupon Landlord shall be deemed released from all liability and obligations hereunder arising out of any act, occurrence or omission relating to the Premises or this Lease occurring after the consummation of such sale or transfer. Tenant agrees to attorn to any successor, assignee, mortgagee or ground lessor of Landlord.

### **ARTICLE 20. SUBORDINATION AND ATTORNMENT**

#### **20.1 SUBORDINATION OF LEASE AND TENANT'S ATTORNMENT.**

This Lease is subordinate to the lien of all mortgages, deeds of trust, security instruments, ground leases, easement agreements and any covenants, conditions and restrictions (collectively, "Superior Interests") now or hereafter covering all or any part of the Shopping Center, and to all amendments, modifications, consolidations, renewals, replacements and extensions thereof. Tenant also agrees that, if any mortgagee elects to have this Lease prior to the lien of its mortgage and signifies such election in the instrument creating its lien, or by separate recorded instrument, this Lease shall be prior in dignity to such mortgage. In the event of any proceedings brought for the enforcement of any instrument of any Superior Interest holder (including but not limited to a mortgage or lease), Tenant shall, upon demand by the Superior Interest holder attorn to and recognize such Superior Interest holder as Landlord under this Lease. In the event of a sale or assignment of Landlord's interest under this Lease or in the Premises, Tenant shall attorn to and recognize such purchaser or assignee as Landlord under this Lease without further act by Landlord or such purchaser or assignee. Tenant hereby waives its rights under any current or future law which gives or purports to give Tenant any right to terminate or otherwise adversely affect this Lease and the obligations of Tenant hereunder in the event of any such foreclosure proceeding or sale.

#### **20.2 INSTRUMENTS TO CARRY OUT INTENT.**

Tenant agrees that, in order to confirm the provisions of this Article, but in no way limiting the self-operative effect of said provisions, Tenant shall execute and deliver whatever instruments may be required for such purposes within ten (10) days following Landlord's written request. Should Tenant fail to sign and return any such instruments within said ten (10) day period, Tenant shall be in default hereunder without the benefit of any additional notice or cure periods specified in this Lease.

### **ARTICLE 21. ESTOPPEL CERTIFICATES**

#### **21.1 TENANT'S AGREEMENT TO DELIVER.**

Within ten (10) days after request therefor from Landlord, Tenant agrees to execute and deliver to Landlord, or to such other addressee or addressees as Landlord may designate (and any such addressee may rely thereon), a statement in writing certifying (if true) that the Lease is in full force and effect and unmodified or describing any modifications; that Tenant has accepted the Premises; that Landlord has performed all of its obligations under the Lease arising prior to the date of the certificate; that there are no defenses or offsets against the enforcement of this Lease or stating with particularity those claimed by Tenant; stating the date to which Rent has been paid; and making such other true representations as may be reasonably requested by Landlord.

### **ARTICLE 22. QUIET ENJOYMENT**

#### **22.1 FAITHFUL PERFORMANCE.**

Upon payment of the Rent herein provided for and the observance and performance of all of the agreements, covenants, terms and conditions to be observed and performed by the Tenant, Tenant shall peaceably and quietly hold and enjoy the Premises for the Term without hindrance or interruption by Landlord or any other person or persons lawfully or equitably claiming by, through or under Landlord.

### **ARTICLE 23. SURRENDER AND HOLDING OVER**

#### **23.1 DELIVERY AFTER TERM.**

Tenant shall deliver up and surrender to Landlord possession of the Premises upon the expiration or earlier termination of the Term, broom clean, free of debris, in good order, condition and state of repair (except as may be Landlord's obligation under this Lease and ordinary wear and tear), and shall deliver the keys at the office of Landlord in the Shopping Center or to Landlord at the address to which notices to Landlord are to be sent. If not sooner terminated as herein provided, this Lease shall terminate at the end of the Term as provided for in Article 3 without the necessity of notice from either Landlord or Tenant to terminate the same, Tenant hereby waiving notice to vacate the Premises and agreeing that Landlord shall be entitled to the benefit of all provisions of law respecting the summary recovery of possession of premises from a tenant holding over.

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### **23.2 EFFECT OF HOLDING OVER; RENT.**

If Tenant or any party claiming under Tenant remains in possession of the Premises, or any part thereof, after any termination or expiration of this Lease, no tenancy or interest in the Premises shall result therefrom, but such holding over shall be an unlawful detainer and all such parties shall be subject to immediate eviction and removal, and Tenant shall upon demand pay to Landlord, as liquidated damages, a sum equal to all Percentage Rent, if any, and Additional Rent provided for in this Lease during any period which Tenant shall hold the Premises after the Term has expired, plus an amount computed at the rate of double the Minimum Annual Rent for such period. In addition, Tenant shall indemnify, protect, defend (by counsel approved in writing by Landlord) and hold Landlord harmless from and against any and all claims, judgments, suits, causes of action, damages, losses, liabilities and expenses (including attorneys' fees and court costs) resulting from such failure to surrender, including, without limitation, any claim made by any succeeding tenant based thereon. The foregoing indemnity shall survive the expiration or earlier termination of this Lease. The foregoing provisions of this Section 23.2 are in addition to, and do not affect, Landlord's right of re-entry or any other rights of Landlord hereunder or otherwise provided by law or equity.

## **ARTICLE 24. CONDEMNATION**

### **24.1 ALL OF PREMISES TAKEN.**

If the whole of the Premises shall be taken either permanently or temporarily by any right of eminent domain or conveyance in lieu thereof (each being hereinafter referred to as "condemnation"), this Lease shall terminate as of the day possession shall be taken by the condemning authority.

### **24.2 LESS THAN ALL OF PREMISES TAKEN.**

If twenty percent (20.0%) or more of the GLA in the Premises is taken by condemnation or if (regardless of the percentage of the GLA in the Premises which is taken) the remainder of the Premises is divided in two or more units, then in either event Landlord and Tenant shall have the right to terminate this Lease upon ninety (90) days written notice after possession is taken by such condemnation whereupon the Lease shall terminate as of the day possession shall be taken by such condemning authority. Tenant shall pay Rent and perform all of its other obligations under this Lease up to that date. If this Lease is not so terminated, the GLA of the Premises shall be accordingly adjusted as of the date of the taking, Rent shall be accordingly adjusted and any pre-paid Rent shall be proportionately credited or debited to Tenant. Thereafter, the Rent shall be based on the square footage of GLA in the Premises. Landlord agrees, at Landlord's cost and expense, as soon as reasonably possible, to restore the Premises on the land remaining to a complete unit of like quality and character as existed prior to such appropriation or taking; provided that Landlord shall not be required to expend more on such restoration than the condemnation award received by Landlord (less all expenses, costs, legal fees and court costs incurred by Landlord in connection with such award).

### **24.3 SHOPPING CENTER TAKEN.**

- (a) If any part of the Shopping Center (including any easement appurtenant to Landlord's interest therein) is taken by condemnation so as to render, in Landlord's judgment, the remainder unsuitable (in Landlord's discretion) for use as a retail shopping center, Landlord shall have the right to terminate this Lease upon notice in writing to Tenant within one hundred twenty (120) days after possession is taken by such condemnation. If Landlord so terminates this Lease, it shall terminate as of the day possession is taken by the condemning authority, and Tenant shall pay Rent and perform all of its obligations under this Lease up to that date with a proportionate refund by Landlord of any Rent as may have been paid in advance for a period subsequent to such possession.
- (b) If title to (i) twenty percent (20.0%) or more of the GLA of Landlord's Building or (ii) twenty percent (20.0%) or more of the parking required to be maintained in the Shopping Center is so taken, and if Landlord within one (1) year after such taking has not substituted an equivalent number of parking spaces in a location reasonably accessible to the Shopping Center, then either party may terminate this Lease by notice to the other given within thirty (30) days after the taking or after the expiration of such one (1) year period, as the case may be.

### **24.4 OWNERSHIP OF AWARD.**

All damages for any condemnation of all or any part of the Shopping Center, including, but not limited to, all damages as compensation for diminution in value of the leasehold, reversion and fee, shall belong to the Landlord without any deduction therefrom for any present or future estate of Tenant, and Tenant hereby assigns to Landlord all its right, title and interest to any such award. Although all damages in the event of any condemnation are to belong to the Landlord, Tenant may have the right to claim and recover from the condemning authority, but not from Landlord, such compensation as may be separately awarded or recoverable by Tenant in Tenant's own right on account of any and all damage to Tenant's business by reason of the condemnation and for or on account of any cost or loss which Tenant might incur in removing Tenant's merchandise, furniture, fixtures, leasehold improvements and equipment.

### **24.5 CONFLICTS.**

If there is a conflict between the provisions of this Article 24 and Article 13, the provisions of Article 24

shall govern.

## **ARTICLE 25. MISCELLANEOUS**

### **25.1 INTERPRETATION.**

- (a) The captions appearing in this Lease are inserted only as a matter of convenience and in no way amplify, define, limit, construe or describe the scope or intent of such sections of the Lease. The neuter, feminine or masculine pronoun when used herein shall each include each of the other genders and the use of the singular shall include the plural.
- (b) The printed provisions of this Lease were drawn together by Tenant and Landlord, so that this Lease shall not be construed for or against Landlord or Tenant, but this Lease shall be interpreted in accordance with the general tenor of the language in an effort to reach the intended result.
- (c) Notwithstanding any other provision of this Lease, if the state in which the premises is located recognizes a distinction between an estate for years and a "usufruct," it is the intention of the parties for this instrument to create a usufruct and not an estate for years.

### **25.2 RELATIONSHIP OF PARTIES.**

Nothing herein contained shall be construed as creating any relationship between the parties other than the relationship of Landlord and Tenant, nor cause either party to be responsible in any way for the acts, debts or obligations of the other.

### **25.3 NOTICES.**

- (a) Any notice, demand, request, approval, consent or other instrument which may be or is required to be given under this Lease shall be in writing and shall be deemed to have been given when delivered to the party to be notified or when mailed by United States certified mail, return receipt requested, postage prepaid, or when delivered by a courier such as Federal Express, addressed to the party to be notified at the address of such party set forth in Section 1.1(f), or to such other address as such party may from time to time designate by notice to the other in accordance with this Section.
- (b) No notice required to be given to Landlord shall be effective for any purpose unless and until a true copy thereof is given to each mortgagee of Landlord's estate, provided Tenant has previously been given written notice of the name and address of such mortgagee.
- (c) Notices required hereunder may be given by an attorney acting on behalf of Landlord or Tenant.

### **25.4 SUCCESSORS.**

This Lease shall inure to the benefit of and be binding upon Landlord, its successors and assigns, and shall be binding upon Tenant, its successors and assigns, and shall inure to the benefit of Tenant and only such assigns of Tenant to whom the assignment by Tenant has been made and consented to in accordance with the provisions of this Lease.

### **25.5 BROKER'S COMMISSION.**

Landlord has entered into an agreement with the real estate broker specified in Section 1.1(n) of the Lease as representing Landlord ("Landlord's Broker"), and Landlord shall pay any commissions or fees that are payable to Landlord's Broker with respect to this Lease in accordance with the provisions of a separate commission contract. Landlord shall have no further or separate obligation for payment of commissions or fees to any other real estate broker, finder or intermediary. Tenant represents that it has not had any dealings with any real estate broker, finder or intermediary with respect to this Lease, other than Landlord's Broker and the broker specified in Section 1.1(n) of the Lease as representing Tenant ("Tenant's Broker"). Any commissions or fees payable to Tenant's Broker with respect to this Lease shall be paid exclusively by Landlord's Broker. Each party represents and warrants to the other, that, to its knowledge, no other broker, agent or finder (a) negotiated or was instrumental in negotiating or consummating this Lease on its behalf, or/and (b) is or might be entitled to a commission or compensation in connection with this Lease. Any broker, agent or finder of Tenant whom Tenant has failed to disclose herein shall be paid by Tenant.

### **25.6 UNAVOIDABLE DELAYS.**

In the event that either party shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure labor or materials, failure of power, restrictive governmental laws or regulations, riots, insurrection, war, fire or other casualty or other reason of a similar or dissimilar nature beyond the reasonable control of the party delayed in performing work or doing acts required under the terms of this Lease, then performance of such act shall be excused for the period of the delay and the period for the performance of any such act shall be

extended for a period equivalent to the period of such delay. The provisions of this Section shall not operate to excuse Tenant from prompt payment of Rent or any other payments required by the terms of this Lease and shall not extend the Term. Delays or failures to perform resulting from lack of funds shall not be deemed delays beyond the reasonable control of a party.

**25.7 ENTIRE AGREEMENT.**

There are no oral agreements between the parties hereto affecting this Lease, and this Lease supersedes and cancels any and all previous negotiations, arrangements, letters of intent, lease proposals, brochures, agreements, representations, promises, warranties and understandings between the parties hereto or displayed by Landlord to Tenant with respect to the subject matter thereof. This Lease, including the Exhibits and any addenda, sets forth all the covenants, promises, agreements, conditions and understandings between Landlord and Tenant concerning the Premises and the Shopping Center. No alteration, amendment, change or addition to this Lease shall be binding upon Landlord or Tenant unless reduced in writing, signed and mutually delivered between them.

**25.8 APPLICABLE LAW.**

The laws of the state in which the Premises are located shall govern the validity, performance and enforcement of this Lease.

**25.9 WAIVER.**

Failure of either party to insist upon the strict performance of any provision of this Lease or to exercise any option or enforce any rules and regulations shall not be construed as a waiver in the future of any such provision, rule or option.

**25.10 ACCORD AND SATISFACTION.**

No payment by Tenant or receipt by Landlord of a lesser amount than the Rent herein stipulated shall be deemed to be other than on account of the earliest stipulated Rent, nor shall any endorsement or statement on any check or any letter accompanying any such check or payment as Rent be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or pursue any other remedy provided for in this Lease or available at law or in equity.

**25.11 LANDLORD'S SELF-HELP.**

In addition to Landlord's rights of self-help set forth elsewhere in this Lease, if Tenant at any time fails to perform any of its obligations under this Lease in a manner reasonably satisfactory to Landlord, Landlord shall have the right, but not the obligation, upon giving Tenant at least ten (10) days' prior written notice of its election to do so (in the event of an emergency, no prior notice shall be required), to perform such obligations on behalf of and for the account of Tenant and to take all such action necessary to perform such obligations without liability to Tenant for any loss or damage which may result to Tenant's stock or business by reason of such repairs. In such event, Landlord's costs and expenses incurred therein shall be paid for by Tenant as Additional Rent, forthwith upon demand therefor, with interest thereon from the date Landlord performs such work at the Default Rate. The performance by Landlord of any such obligation shall not constitute a release or waiver of Tenant therefrom.

**25.12 RECORDING.**

Tenant agrees that it will not record the Lease, nor a short memorandum thereof.

**25.13 JOINT AND SEVERAL LIABILITY.**

If two or more individuals, corporations, partnerships or other business associations (or any combination of two or more thereof) shall sign this Lease as Tenant, the liability of each of them shall be joint and several. In like manner, if the Tenant named in this Lease shall be a partnership or other business association, the members of which are, by virtue of statute or general law, subject to personal liability, the liability of each such member shall be joint and several.

**25.14 EXECUTION OF LEASE.**

The submission of this Lease for examination does not constitute a reservation of or option for the Premises or any other space within the Shopping Center and shall vest no right in either party. This Lease shall become effective as a Lease only upon execution and legal delivery thereof by the parties, together with the execution and delivery to Landlord of a Guaranty in the form annexed hereto by the Guarantor(s), if any, named in Section 1.1(k) and the delivery by Tenant to Landlord of any documents and monies (if any) required to be delivered by Tenant to Landlord upon Tenant's execution and delivery of this Lease to Landlord. This Lease may be executed in more than one counterpart, and each such counterpart shall be deemed to be an original document.

**25.15 WAIVER OF JURY TRIAL.**

The Tenant hereby waives trial by jury in any action, proceeding, or permissive counterclaim involving any matters whatsoever arising out of or in any way connected with the Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or claim or injury or damage.

**25.16 TIME OF THE ESSENCE.**

Time is of the essence of each and every obligation under this Lease.

#### 25.17 TENANT'S AUTHORITY.

If Tenant executes this Lease as a limited liability company, partnership, or corporation, then Tenant and the persons and/or entities executing this Lease on behalf of Tenant represent and warrant that: (a) Tenant is a duly organized, authorized and validly existing partnership, corporation or limited liability company, as the case may be, and is qualified to do business in the state in which the Premises is located; (b) such persons and/or entities executing this Lease are duly authorized to execute and deliver this Lease on Tenant's behalf in accordance with the Tenant's operating agreement (if Tenant is a limited liability company), Tenant's partnership agreement (if Tenant is a partnership), or a duly adopted resolution of Tenant's board of directors and the Tenant's by-laws (if Tenant is a corporation), and (c) this Lease is binding upon Tenant in accordance with its terms. Concurrently with Tenant's execution and delivery of this Lease to Landlord and/or at any time during the Term with ten (10) days of Landlord's request, Tenant shall provide to Landlord a copy of any documents reasonably requested by Landlord evidencing such qualification, organization, existence and authorization.

#### 25.18 RELOCATION.

Landlord shall be entitled to cause Tenant to relocate from the Premises to a comparable space within the Shopping Center (the "Relocation Space") at any time upon written notice to Tenant. Any such relocation shall be entirely at the expense of Landlord or the third party tenant replacing Tenant in the Premises. Such relocation shall not terminate or otherwise affect or modify this Lease except that, from and after the date of such relocation, "Premises" shall refer to the Relocation Space into which Tenant has been moved, rather than the original Premises as herein defined. Landlord shall be allowed to with reasonable means to reuse Tenant's trade fixtures.

#### ARTICLE 26. OPTION TO EXTEND

Tenant shall have the option, exercisable by written notice to Landlord, by certified mail, return receipt requested, given not later than six months prior to the expiration of the initial Term, to extend the Lease for one further term of sixty (60) months on the same terms and conditions as provided in the Lease, except that:

- (a) Landlord shall have no obligation to make any improvements to the Premises; and
- (b) Minimum Annual Rent for the first extended term shall be as set forth below:

<u>Months</u>	<u>\$ Per Square Foot Per Annum</u>
1 - 60	\$17.60

and

- (c) there shall be no option to further extend the term.

Notwithstanding the foregoing, this Option to Extend the Lease shall be deemed null and void if one or more of the following has occurred:

1. Tenant has been late in the payment of rent on three (3) or more occasions within any twelve (12) month period. For this purpose, a payment shall be deemed to be late if it is received by Landlord after the second day of the month in which such rent is due.
2. Tenant has been late on three (3) or more occasions within any twelve (12) month period in furnishing to Landlord the monthly sales reports required by Article 4. For this purpose, a report shall be deemed to be late if it is received by the Landlord on or after the 21st day of the month.
3. Tenant is in default in the performance of any of its obligations under the Lease.
4. Tenant has failed to give written notice by certified mail, return receipt requested, to Landlord six (6) months prior to the expiration of the initial term.
5. The Lease has ever been assigned.

#### ARTICLE 27. CONSTRUCTION ALLOWANCE:

Upon (i) completion of all Tenant's Work (other than the completion of punch list items as defined above), (ii) acceptance by Tenant of the Premises, (iii) opening for business by Tenant in the Premises, (iv) the submission of lien waivers from Tenant's construction manager, and from all subcontractors and material suppliers to the property, (v) the furnishing to Landlord's title insurance company of an indemnity from Tenant (in form reasonably acceptable to Tenant and such title company) against mechanic's liens arising out of the performance of Tenant's Work, (vi) the delivery to Landlord of a certificate of insurance covering the Premises; (vii) the delivery to Landlord of an approved copy of a HVAC maintenance agreement, (viii) the delivery to Landlord of a certificate of occupancy from the governmental authority having jurisdiction, (ix) the delivery to Landlord of Tenant's security deposit, and (x) the delivery to Landlord of a Form W-9, Request for Taxpayer Identification Number and Certification, executed by Tenant, Landlord shall pay Tenant as a Construction Allowance a sum equal to \$58,025.00. If the Landlord shall fail to pay Tenant the Construction Allowance when due, then, in addition to Tenant's other

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rights and remedies, such unpaid amount shall bear interest from the date which is ten (10) days after the due date thereof until paid by Landlord or recouped by Tenant as hereinafter provided at the rate of the lesser of (i) fifteen percent (15%) per annum or (ii) the highest lawful charge that may be made to Landlord under the laws of the state in which the Premises are located (the "Interest Rate"). In addition, if Landlord shall fail to pay the Construction Allowance to Tenant within thirty (30) days after it is due, then, in addition to Tenant's other rights and remedies, Tenant may withhold payment of the Annual Fixed Rent and other charges due under this Lease until Tenant has recouped such amount in full together with interest at the Interest Rate.

#### **ARTICLE 28. LANDLORD'S LIEN.**

TO SECURE THE PAYMENT OF ALL RENTAL AND OTHER SUMS OF MONEY DUE OR TO BECOME DUE HEREUNDER AND THE FAITHFUL PERFORMANCE OF THIS LEASE BY TENANT, TENANT HEREBY GRANTS TO LANDLORD AN EXPRESS FIRST AND PRIOR CONTRACTUAL LIEN AND SECURITY INTEREST ON ALL PROPERTY (INCLUDING, BUT NOT LIMITED TO, FURNITURE, FIXTURES, EQUIPMENT, INVENTORY, CHATTELS AND MERCHANDISE AND ALL ACCESSORIES THERETO AND ALL PROCEEDS THEREOF) WHICH MAY BE PLACED ON THE PREMISES, AND ALSO UPON ALL PROCEEDS OF ANY INSURANCE WHICH MAY ACCRUE TO TENANT BY REASON OF DESTRUCTION OF OR DAMAGE TO ANY SUCH PROPERTY. SUCH PROPERTY SHALL NOT BE REMOVED FROM THE PREMISES WITHOUT THE WRITTEN CONSENT OF LANDLORD UNTIL ALL ARREARAGES IN RENTAL AND OTHER SUMS OF MONEY THEN DUE TO LANDLORD HEREUNDER SHALL FIRST HAVE BEEN PAID. ALL EXEMPTION LAWS ARE HEREBY WAIVED IN FAVOR OF SAID LIEN AND SECURITY INTEREST. THIS LIEN AND SECURITY INTEREST IS GIVEN IN ADDITION TO LANDLORD'S STATUTORY LIEN AND SHALL BE CUMULATIVE THERETO. UPON THE OCCURRENCE OF ANY EVENT OF DEFAULT, THIS LIEN MAY BE FORECLOSED WITH OR WITHOUT COURT PROCEEDINGS, BY PUBLIC OR PRIVATE SALE, PROVIDED LANDLORD GIVES TENANT AT LEAST TEN (10) DAYS NOTICE OF THE TIME AND PLACE OF SAID SALE, AND LANDLORD SHALL HAVE THE RIGHT TO BECOME THE PURCHASER UPON BEING THE HIGHEST BIDDER AT SUCH SALE. CONTEMPORANEOUSLY WITH THE EXECUTION OF THIS LEASE (AND IF REQUESTED HEREINAFTER BY LANDLORD), TENANT SHALL EXECUTE AND DELIVER TO LANDLORD UNIFORM COMMERCIAL CODE FINANCING STATEMENTS IN SUFFICIENT FORM SO THAT, WHEN PROPERLY FILED, THE SECURITY INTEREST HEREBY GRANTED SHALL THEREUPON BE PERFECTED. IF REQUESTED HEREAFTER BY LANDLORD, TENANT SHALL ALSO EXECUTE AND DELIVER TO LANDLORD UNIFORM COMMERCIAL CODE FINANCING STATEMENTS IN SUFFICIENT FORM TO REFLECT ANY AMENDMENT OR MODIFICATION IN OR EXTENSION OF THE AFORESAID CONTRACTUAL LIEN AND SECURITY INTEREST HEREBY GRANTED. TENANT HEREBY GRANTS TO LANDLORD TENANT'S POWER-OF-ATTORNEY TO EXECUTE SAID FINANCING STATEMENTS IN TENANT'S NAME, PLACE AND STEAD. SAID POWER IS COUPLED WITH AN INTEREST AND IS IRREVOCABLE. LANDLORD SHALL, IN ADDITION TO ALL OF LANDLORD'S RIGHTS HEREUNDER, HAVE ALL OF THE RIGHTS AND REMEDIES OF A SECURED PARTY UNDER THE UNIFORM COMMERCIAL CODE AS ADOPTED IN THE STATE IN WHICH THE PREMISES ARE LOCATED. A COPY OF THIS LEASE MAY BE FILED AS A NON-STANDARD FINANCING STATEMENT. IN ORDER TO SECURE THE PAYMENT OF TENANT'S OBLIGATIONS UNDER THIS LEASE, TENANT HEREBY GRANTS A SECURITY INTEREST TO LANDLORD IN ALL OF TENANT'S PROPERTY AND INTERESTS OF EVERY KIND, NOW OWNED OR HEREAFTER ACQUIRED BY TENANT, WHEREVER LOCATED, INCLUDING ALL OF TENANT'S PERSONAL PROPERTY AND FIXTURES OF EVERY KIND, INSTRUMENTS, CHATTEL PAPER, LETTER OF CREDIT RIGHTS, ACCOUNTS, GOODS, INVENTORY, EQUIPMENT, NOTES, DEPOSIT ACCOUNTS, COMMERCIAL TORT CLAIMS AND GENERAL INTANGIBLES OF EVERY KIND.

#### **ARTICLE 29. AUDIT RIGHT PROVISION.**

Subject to the limitations and restrictions below, Tenant shall have the right, at its sole cost and expense, upon at least thirty (30) days prior written notice, to audit Landlord's books and records pertaining to Landlord's common area costs and expenses for the immediately preceding calendar year. Tenant's right of audit is further subject and conditioned upon the following:

- (a) Tenant must utilize its own qualified employees or employ a nationally recognized accounting firm or other qualified accountant or professional to conduct the audit and may not have a contingent fee arrangement with the person or firm engaged to perform the audit;
- (b) Tenant must elect to conduct its audit within six (6) months following Tenant's receipt of Landlord's annual statement of common area costs and expenses (but no more than once in any calendar year), time being deemed of the essence; (failing which the annual statement shall be deemed to be correct);
- (c) The audit shall be conducted at Landlord's designated offices;
- (d) Tenant and its auditors shall be required to execute a confidentiality letter in form reasonably satisfactory to landlord and Tenant, the effect of which will require Tenant and its auditors to refrain from divulging the contents and results of the audit to any third person, except and to the extent that disclosure is required to potential lenders,

partners, assignees or purchasers of Tenant, governmental agencies or in the event of litigation, subpoena or governmental compliance; and

- (e) If the Tenant shall have had an audit made for any calendar year, then Tenant shall provide Landlord with a copy of the audit report.

In the event that any such audit reveals that Tenant has overpaid its pro rata share of said common area costs and expenses for such calendar year, then as Tenant's sole remedy, there shall be a prompt adjustment between the Landlord and the Tenant as provided in this Section and Landlord shall reimburse Tenant the amount of the overpayment. In the event Tenant has overpaid in excess of 5% in any calendar year, then the Landlord shall pay to the Tenant the reasonable cost of such audit.

IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Lease as of the day and year first above written.

LANDLORD:

REGENCY CENTERS, L.P.  
a Delaware Limited Partnership  
By: Regency Centers Corporation  
a Florida Corporation  
Its: General Partner

Tomeracy Taylor  
Witness  
Shirley Taylor  
Witness

John C. Compton  
By: John C. Compton  
Its: Vice President

TENANT:

VERVE SPA AND SALON

Ma J. May  
Witness  
Shirley Taylor  
Witness

Jim V. Blatt  
By: Jim V. Blatt  
Its: Director

Attest: \_\_\_\_\_  
Its: \_\_\_\_\_

Tax I.D.#: 31-478897

STATE OF OHIO )  
) ss.  
COUNTY OF HAMILTON )

On this 19th day of July, 2004, before me, a Notary Public within and for said County, personally appeared Kim U. Blatt, to me personally known, who, being duly sworn, did acknowledged before me under oath that he/she is the President of Verve Spa & Salon, and that he/she acknowledged the foregoing instrument to be the free act and deed of SMS corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid the day and year first above written.

Notary Public  
My Commission Expires: Jan 5, 2009  
STATE OF Missouri )  
) ss.  
COUNTY OF St. Louis )

SEAN P. WALL  
Notary Public, State of Ohio  
My Commission Expires Jan. 5, 2009  
Sean Wall

On this 28th day of July, 2004, before me, a Notary Public within and for said County, personally appeared John C. Compton, to me personally known, who, being duly sworn, did acknowledge before me under oath that he/she is the Vice President of Regency Realty Group.



, a *corporation*, and the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation, by authority of its Board of Directors; and said *John C. Compton* acknowledged said instrument to be the free act and deed of said corporation.

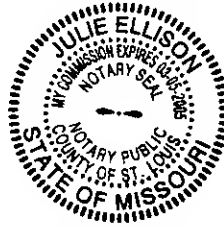
IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

*Julie Ellison*

My Commission Expires:

*3/5/05*



**Execution:**

**Corporate:** This Lease must be executed for Tenant, if a corporation, by the president or vice president and attested by the secretary or assistant secretary, unless the bylaws or a resolution of the Board of Directors shall otherwise provide, in which event, a certified copy of the bylaws or resolution, as the case may be, must be furnished. Also, the corporate seal of Tenant, if Tenant has such a seal, must be affixed.

**Individual:** This Lease must be executed by each individual whose name appears under the signature lines. Their execution must be witnessed by two disinterested persons who must sign as witnesses in the space provided.

*KVB*

EXHIBIT A  
LEGAL DESCRIPTION

HYDE PARK PLAZA

DESCRIPTION:	Rogers, Towers, Bailey, Jones & Gay Paxton & Wasson Roads
LOCATION:	Columbia Township SEC-27, T-4, FR-2 City of Cincinnati Hamilton County, Ohio

DESCRIPTION OF LAND

Situated in	the City of Cincinnati (Columbia Township) Section 27, Town 4, Fractional Range 2, County of Hamilton, State of Ohio;
Identified as	parts of the Estate of Henry Morton as recorded in Plat Book 3, Page 316 in the offices of the Hamilton County Recorder;
Beginning at	a point in the northeast corner of Registered Land Certificate Number 21970, said point being in the east line of said Section 27, 1,331.13 feet south of the northeast corner thereof;
Thence with	the north line of said Registered Lands;  North 89° 30' 00" West, 460.07 feet to a point, said point being the Place Of Beginning of the herein described tract;  from this Place Of Beginning;
Thence with	the north lines of the Owners' Lands the following four (4) courses and distances:  1) South 78° 42' 30" West, 387.30 feet to a point;  2) North 64° 44' 00" West, 188.18 feet to a point, in the south line of Lot 9 in said Estate;  3) North 89° 32' 00" West, 147.26 feet to a point;



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AUG 13 1997

PAGE 2

## DESCRIPTION:

Rogers, Towers, Bailey,  
Jones & Gay  
Paxton & Wasson Roads

## LOCATION:

Columbia Township  
SEC-27, T-4, FR-2  
City of Cincinnati  
Hamilton County, Ohio

- 4) North 55° 44' 30" West, 135.62 feet through Lot 9 to a point in the existing right-of-way line of Paxton Road as improved.

Thence with

said right-of-way line;

South 29° 46' 00" West, 328.71 feet to a point;

Thence

through and across the Owners' Lands the following four (4) courses and distances:

- 1) South 89° 32' 00" East, 470.72 feet to a point;
- 2) South 00° 36' 00" West, 40.77 feet to a point;
- 3) South 89° 32' 00" East, 500.00 feet to a point;
- 4) North 00° 30' 00" East, 252.00 feet to a Place Of Beginning.

Thus

enclosing 4.524 acres of land, of which 1.874 acres are part of Registered Land Certificate Number 99724 (21970) as further described herein, and 2.650 acres of unregistered land;

Subject to

and together with easements and covenants of record;

That part

of this tract (1.874 acres) identified as Registered Land Certificate Number 99724 is described as follows:

Beginning at

a point in the northeast corner of Registered Land Certificate Number 21970, said point being in the east line of said Section 27, 1,331.13 feet south of the northeast corner thereof,

Thence with

the north line of said Registered Lands;

North 89° 30' 00" West, 460.07 feet to a point in a corner of said lands;

INITIAL  
HERE

*[Handwritten signature]*

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PAGE 3

## DESCRIPTION:

Rogers, Towers, Bailey,  
Jones & Gay  
Paxton & Wasson Roads

## LOCATION:

Columbia Township  
SEC-27, T-4, FR-2  
City of Cincinnati  
Hamilton County, Ohio

Thence at right-angles;  
South 00° 30' 00" West, 252.00 feet to a point in another corner  
of said lands;

Thence North 89° 32' 00" West, 500.00 feet to a point which is the Place  
Of Beginning of the herein described Registered Land;  
from this Place Of Beginning;

Thence continuing in the lines of said Registered Land the following four  
(4) courses and distances:

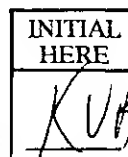
- 1) North 00° 30' 00" East, 146.00 feet to a point;
- 2) North 89° 32' 00" West, 50.00 feet to a point;
- 3) North 00° 30' 00" East, 106.00 feet to a point;
- 4) North 89° 32' 00" West, 302.30 feet to a point in the existing  
right-of-way line of improved Paxton Road.

Thence with the existing right-of-way line;  
South 29° 46' 00" West, 242.22 feet to a point;

Thence through and across said Registered Land the following two (2)  
courses and distances:

- 1) South 89° 32' 00" East, 470.72 feet to a point;
- 2) South 00° 30' 00" West, 40.77 feet to a point at the place of  
beginning.

Thus enclosing 1.874 acres of Registered Land.



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PAGE 4

## DESCRIPTION:

Rogers, Towers, Bailey,  
Jones & Gay  
Paxton & Wasson Roads

## LOCATION:

Columbia Township  
SEC-27, T-4, FR-2  
City of Cincinnati  
Hamilton County, Ohio

## DESCRIPTION OF LAND

Situated in the City of Cincinnati (Columbia Township) Section 27,  
Town 4, Fractional Range 2, County of Hamilton, State of Ohio;

Identified as part of the Estate of Henry Morton as recorded in Deed Book 88,  
Page 372, in the offices of the Hamilton County  
Recorder;

and parts of the Catherine Hanford Estate as recorded in Plat  
Book 3, Page 316, and Plat Book 5, Page 285, in the offices of the  
Hamilton County Recorder;

Deed Reference Deed Book 4392, Page 2157, et seq., Registered Land Book 272,  
Page 99724, Registered Land, Book 362, Page 133501, and  
Registered Land Certificate Number 135891 in the offices of the  
Hamilton County Recorder;

and more particularly described as follows:

Beginning at a point in the northwest corner of Registered Land Certificate  
Number 21970, said point being in the east line of said Section 27,  
1.331.13 feet south of the northeast corner thereof;

Thence with the north line of said Registered Lands;

North 89° 30' 00" West, 210.11 feet to a point, said point being  
the Place Of Beginning of the herein described tract as the  
northwest corner of Registered Land Certificate Number 99724,  
Parcel I;

from this Place Of Beginning;

Thence South 00° 25' 00" West, 742.68 feet to a point;

Thence North 89° 32' 00" West, 959.49 feet to a point;



PAGE 5

## DESCRIPTION:

Rogers, Towers, Bailey,  
Jones & Gay  
Paxton & Wasson Roads

## LOCATION:

Columbia Township  
SEC-27, T-4, FR-2  
City of Cincinnati  
Hamilton County, Ohio

Thence South 00° 07' 00" West, 10.00 feet to a point;

Thence North 89° 12' 00" West, 198.00 feet to a point;

Thence South 00° 30' 05" West, 516.86 feet to a point; the north right-of-way line of improved Wasson Road;

Thence North 89° 50' 55" West, 239.36 feet to a point;

Thence North 00° 09' 05" East, 3.00 feet to a point;

Thence 111.04 feet with the arc of a curve deflecting westwardly at a radius of 470.00 feet, the cord across which bears;

North 83° 04' 48" West, 110.78 feet to a point tangent to said curve;

Thence North 76° 18' 42" West, 50.00 feet to a point tangent to another curve;

Thence 119.28 feet with the arc of a reverse curve deflecting westwardly at a radius of 530.00 feet, the chord across which bears;

North 82° 45' 34" West, 119.03 feet to a point tangent to the other curve;

Thence North 89° 12' 25" West, 29.39 feet to a point;

Thence North 25° 40' 00" West, 361.38 feet to a point in the existing right-of-way line of improved Paxton Road;

Thence with said right-of-way line the following three (3) courses and distances:



REGENCY  
CINCINNATI

PAGE 6

**DESCRIPTION:**

Rogers, Towers, Bailey,  
Jones & Gay  
Paxton & Wasson Roads

**LOCATION:**

Columbia Township  
SEC-27, T-4, FR-2  
City of Cincinnati  
Hamilton County, Ohio

- 1) North 51° 59' 00" East, 515.13 feet to a point;
- 2) 134.55 feet with the arc of a curve deflecting northwardly at a radius of 347.00 feet, the chord across which bears;

North 40° 52' 30" East, 133.71 feet to a point tangent to said curve;

- 3) North 29° 46' 00" East, 310.44 feet to a point.

Thence South 89° 32' 00" East, 470.72 feet to a point;

Thence South 00° 30' 00" West, 40.77 feet to a point;

Thence South 89° 32' 00" East, 500.00 feet to a point;

Thence North 00° 30' 00" East, 252.00 feet to a point in the north line of said Registered Land Certificate Number 21970;

Thence with said north line;

South 89° 30' 00" East, 249.96 feet to the place of beginning;

Thus enclosing 25.077 acres of land of which 9.001 acres are Registered Lands and 16.076 acres are unregistered;

Subject to and together with easements and covenants of record.

The herein described lands include the following Registered Land Parcels described as follows:

R. L. Parcel A identified as Registered Land Certificate Number 133501 and as Parcel II of Certificate Number 99724;

REGENCY  
CENTERS



## DESCRIPTION:

Rogers, Towers, Bailey,  
Jones & Gay  
Paxton & Wasson Roads

## LOCATION:

Columbia Township  
SEC-27, T-4, FR-2  
City of Cincinnati  
Hamilton County, Ohio

Beginning at a point in the east line of said Section 27, 1,875.65 feet south from the northwest corner thereof;  
<sub>east</sub>

Thence North 89° 32' 00" West, 756.81 feet to a point at the place of beginning in the northwest corner of said Registered Land;  
<sub>east</sub>  
from this Place Of Beginning;

Thence with the lines of said Registered Lands, the following five (5) courses and distances:

- 1) North 89° 32' 00" West, 874.73 feet to a point in the east right-of-way line of improved Paxton Road;
- 2) 31.79 feet with the arc of a curve in said right-of-way line deflecting southwardly at a radius of 347.00 feet, the chord across with bears;  
  
South 45° 16' 57" West, 31.77 feet;
- 3) South 00° 07' 05" West, 135.53 feet to a point;
- 4) South 89° 32' 00" East, 897.26 feet to a point;
- 5) North 00° 07' 05" East, 158.07 feet to a Place Of Beginning.

Thus enclosing 3.250 acres of Registered Land;

R. L. Parcel B identified as part of Parcel of Registered Land Certificate Number 99724;

Beginning at a point in the east line of said Section 27, 1,713.95 feet south from the northeast corner thereof;



REC'D  
CITY



DESCRIPTION:

Rogers, Towers, Bailey,  
Jones & Gay  
Paxton & Wasson Roads

LOCATION:

Columbia Township  
SEC-27, T-4, FR-2  
City of Cincinnati  
Hamilton County, Ohio

Thence North 89° 32' 00" West, 211.78 feet to a point which is the  
Place Of Beginning of the herein described Registered Land;

from this Place Of Beginning;

Thence with the lines of said Registered land the following two (2) courses  
and distances:

- 1) North 89° 32' 00" West, 1,317.24 feet to a point in the east  
right-of-way line of improved Paxton Road;
- 2) North 29° 46' 00" East, 197.06 feet to a point.

Thence thru and across said Registered Lands the following six (6) courses  
and distances:

- 1) South 89° 32' 00" East, 470.72 feet to a point;
- 2) South 00° 30' 00" West, 40.77 feet to a point;
- 3) South 89° 32' 00" East, 500.00 feet to a point;
- 4) North 00° 30' 00" East, 252.00 feet to a point;
- 5) South 89° 30' 00" East, 249.96 feet to a point in the  
northwest corner of said Registered Lands;
- 6) South 00° 28' 00" West, 382.94 feet to the Place Of  
Beginning.

Thus enclosing 5.751 acres of land.

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REGENCY  
CENTERS

INITIAL HERE
<i>[Signature]</i>

EASEMENT PARCEL

TOGETHER WITH the non-exclusive easement providing access to the North terminus of East Hills Lane described as follows:

Beginning at

a point in the East line of Section 27, T14N, R10E, S12W, 2,072.59 feet South from the Northeast corner thereof, said point being in the North terminus of East Hills Lane as described in Plat Book

148, Page 31, in the offices of the Hamilton County Recorder;

Thence

the following four (4) courses and distances:

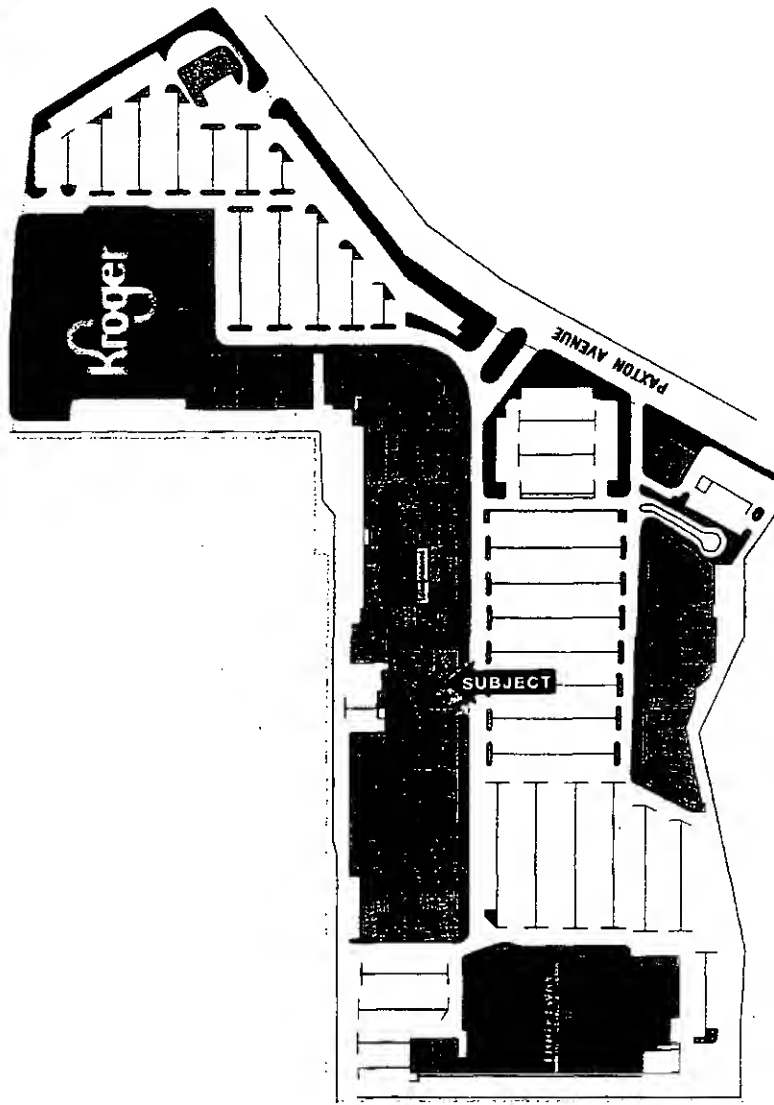
- 1) N 89° 32' W, 213.35 feet to a point.
- 2) N 0° 25' E, 50.00 feet to a point.
- 3) S 89° 32' E, 213.13 feet to a point.
- 4) S 0° 13' W, 50.00 feet to a point.

TOGETHER WITH an easement for access over those lands described in Deed Book 4254, Page 916; and re-recorded in Deed Book 4227, Page 1208 of Hamilton County Records.



SURVEY  
CENTERS

**Hyde Park Plaza**  
3838 Paxton Road  
Cincinnati, Ohio 45209



	Available	Anchor	Leased
1	Kroger		99,975 sq. ft.
2	Food City		1,785 sq. ft.
3	Walgreens		1,785 sq. ft.
4	Medi		2,000 sq. ft.
5	Medi		2,000 sq. ft.
6	Medi		2,000 sq. ft.
7	Medi		2,000 sq. ft.
8	Medi		2,000 sq. ft.
9	Medi		2,000 sq. ft.
10	Medi		2,000 sq. ft.
11	Medi		2,000 sq. ft.
12	Medi		2,000 sq. ft.
13	Medi		2,000 sq. ft.
14	Medi		2,000 sq. ft.
15	Medi		2,000 sq. ft.
16	Medi		2,000 sq. ft.
17	Medi		2,000 sq. ft.
18	Medi		2,000 sq. ft.
19	Medi		2,000 sq. ft.
20	Medi		2,000 sq. ft.
21	Medi		2,000 sq. ft.
22	Medi		2,000 sq. ft.
23	Medi		2,000 sq. ft.
24	Medi		2,000 sq. ft.
25	Medi		2,000 sq. ft.
26	Medi		2,000 sq. ft.
27	Medi		2,000 sq. ft.
28	Medi		2,000 sq. ft.
29	Medi		2,000 sq. ft.
30	Medi		2,000 sq. ft.
31	Medi		2,000 sq. ft.
32	Medi		2,000 sq. ft.
33	Medi		2,000 sq. ft.
34	Medi		2,000 sq. ft.
35	Medi		2,000 sq. ft.
36	Medi		2,000 sq. ft.
37	Medi		2,000 sq. ft.
38	Medi		2,000 sq. ft.
39	Medi		2,000 sq. ft.
40	Medi		2,000 sq. ft.
41	Medi		2,000 sq. ft.
42	Medi		2,000 sq. ft.
43	Medi		2,000 sq. ft.
44	Medi		2,000 sq. ft.
45	Medi		2,000 sq. ft.
46	Medi		2,000 sq. ft.
47	Medi		2,000 sq. ft.
48	Medi		2,000 sq. ft.
49	Medi		2,000 sq. ft.
50	Medi		2,000 sq. ft.
51	Medi		2,000 sq. ft.
52	Medi		2,000 sq. ft.
53	Medi		2,000 sq. ft.
54	Medi		2,000 sq. ft.
55	Medi		2,000 sq. ft.
56	Medi		2,000 sq. ft.
57	Medi		2,000 sq. ft.
58	Medi		2,000 sq. ft.
59	Medi		2,000 sq. ft.
60	Medi		2,000 sq. ft.

4380 Malsbary Road, Suite 500  
Cincinnati, OH 45242  
(513) 886-1600  
(800) 877-5776  
www.regencycenters.com  
Rev. 03/05/04

This site plan is prepared solely for the purpose of identifying the approximate location and size of the building, property contemplated by the owner. Building sizes, site dimensions, access and parking areas, existing tenant locations and identities are subject to change without notice and at the owner's discretion. Unit numbers as indicated are not necessarily the actual suite numbers and are intended for use as a reference only.

INITIAL  
HERE *KVB*

## EXHIBIT C

### DESCRIPTION OF TENANT'S WORK AND WORK TO BE PERFORMED BY LANDLORD

#### A. Procedure for the Preparation and Approval of working Drawings and Specifications.

Tenant shall, within ten (10) days after the date of execution of this lease, deliver to the Landlord for its review and approval two (2) sets of drawings and specifications for the Tenants proposed improvements to the Premises. One set will be returned to the Tenant and one set will be retained by the Landlord. Such drawings shall consist of at least a site plan (if sitework changes to utilities, paving, landscaping, mechanical, electrical, or plumbing systems etc. are proposed), a floor plan, and exterior building elevations (if any modifications are proposed to the storefront or exterior walls) done at a reasonable scale, which will convey detail and intent, as well as an indication of color selection and graphics. Storefront elevations shall include specification of materials and color scheme. The following conditions, as applicable, are to be clearly detailed on the drawings:

- New roof penetrations, including plumbing penetrations for vent stacks, or any modifications to the roof system
- New equipment (satellite dishes, HVAC, etc.) installed on the roof
- Underground utility changes and pavement demolition/replacement
- Modifications to exterior walls to include new doors, windows, finishes, etc.
- Anything to be mounted on the exterior walls
- Changes to electrical, water, or gas service
- Changes to the concrete floor slab
- Grease Trap Location

If the Landlord shall not, within fourteen (14) days after receipt of the Tenant's preliminary plans, indicate its disapproval, the same shall be deemed approved. However, Landlord shall not be responsible for items noted or inferred to be furnished and installed by Landlord unless item is specifically noted in paragraph B or Exhibit C-2.

If Tenant fails to submit its plans and specifications within the 10-day period provided in paragraph 1, the Landlord may, at its option, in addition to all other remedies available for Tenant's default, have the sole right to cancel the Lease. Indulgences granted to Tenant shall not be construed to be a waiver of the provisions of this paragraph. Time is of the essence of this agreement.

Tenant shall have access to change locks upon Landlord's receipt of two sets of plans, contractor's insurance and Tenant's acceptance of space. Tenant will pay costs of lock change and must make appointment with Landlord.

#### B. Landlord's Work.

LANDLORD HAS NO OBLIGATION TO PERFORM ANY WORK WITHIN THE PREMISES OR THE SHOPPING CENTER UNLESS STATED IN EXHIBIT "C-2". IF NO EXHIBIT "C-2" IS ATTACHED (AND SIGNED BY BOTH LANDLORD AND TENANT), TENANT AGREES TO ACCEPT THE PREMISES IN ITS CONDITION "AS IS" AND SHALL BE OBLIGATED TO PERFORM SUCH WORK AS IS NECESSARY TO RENDER THE PREMISES USEFUL FOR THE PURPOSES LEASED.

#### C. Tenant's Work.

All work not specifically described as Landlord's obligation in Exhibit "C-2" shall be the obligation of the Tenant and shall be performed in accordance with approved plans and specifications at the sole cost of Tenant. The following work shall be at the sole expense of the Tenant and shall be subject to the approval of the Landlord, unless otherwise expressly provided herein:

1. Furniture and Fixtures - all furniture, furnishings, trade fixtures and related parts, all of which shall be new unless otherwise approved by Landlord.
2. Fixture and Equipment Connections - electrical and mechanical connection of all merchandising, lighting, floor and wall fixtures or equipment and related parts, including kitchen and food service equipment and other equipment peculiar to Tenant's occupancy.
3. Outdoor seating plan if local ordinance allows.
4. Approved Fire Protection Devices - approved fire extinguishers or fire protection devices in size, type and quantity through the Premises as required by code and standards of governing insurance rating boards.
5. All Signs and Graphics - the design, installation and location of all signs, exit signs and emergency lighting. Landlord must approve all signs prior to any installation. Signage will be solely Tenant's responsibility. Landlord will not be responsible for compliance with city ordinances or liable for Tenant's contractor actions.

6. Ceilings - all ceilings, including lighting coves and other special effects. Ceiling to include insulation no less than R 19 installed no lower than the storefront glass. Requests for sheetrock ceilings must be approved by Landlord. Sheetrock ceilings will be allowed when installing a thirty inch opening access panel within Tenant space.

7. Show Window Backgrounds - all show window backgrounds, show windows, show window floors, show window ceilings and show window lighting installations.

8. Walls and Wall Finishes - all interior partition walls within the Premises and all finishes on walls, including placing the finishes and installing the insulation on and within the partitions erected by Landlord.

9. Doors - all doors and hardware within the Premises. Service doors to exterior are provided by Landlord.

10. Floor Coverings - all floor coverings and floor finishes.

11. Interior Final Finishes - all interior painting, papering, paneling and decoration.

12. Plumbing - all plumbing, including connections to utility systems.

13. Electrical and Telephone Systems and Equipment - furnishing and installation of all interior distribution panels, lighting panels, power panels, conduits, outlet boxes, switches, outlets, wiring, lighting fixtures and lamping; furnishing and installation of conduit and outlets as required for Tenant's telephone service.

14. Tenant will be responsible for costs of installing a rear door unless a rear door already exists or is required by Code.

15. Exterior conduits for utility lines and boxes must be painted to match fascia of building.

D. General.

1. Landlord, Tenant or utility company shall have the right, subject to Landlord's approval, to run utility lines, pipes, roof drainage pipes, conduit, wire or duct work, where necessary, through attic space, column space or other parts of the Premises, and to maintain same in a manner which does not interfere unnecessarily with Tenant's use thereof.

2. The Tenant shall prepare all its plans and perform all its work to comply with all governing statutes, ordinances, regulations, codes and insurance rating boards; take out all necessary permits and obtain certificates of occupancy for the work performed by Tenant - all subject to Landlord's approval. Tenant shall further pay all utility deposits and government impact fees.

3. The concrete floor will be designed to support a uniformly distributed load. Should the Tenant desire a heavier loading, Tenant agrees to pay the cost of engineering and the cost of providing such heavier loading capacity.

4. All work done on the Premises by Tenant must be performed by licensed contractors approved by Landlord. Tenant's contractors shall be required to waive all lien rights against Landlord's interest in the Shopping Center.

5. Meters - All meters required for utility services and utility deposits shall be furnished and installed at Tenant's expense.

## Exhibit "C-1"

### Hyde Park Plaza Signage Criteria Revision Date 4/15/2003

Tenant is required to provide, at its own expense within thirty (30) days from possession of the Leased Premises, the Proposed exterior signage (including installation and permits) for the Premises in accordance with the following criteria:

#### Number of Signs:

- Two (2).
- One (1) exterior parapet sign.
- One (1) undercanopy pedestrian sign.

#### Location:

Exterior parapet sign: Centered on the marquee sign band facing parking lot.

Undercanopy sign: Perpendicular to store front, construction and installation by Landlord at Tenant's expense.

#### Area Requirements:

Exterior Parapet Sign: A single row of channel letters a maximum of thirty-six inches (36") high upper or lower case letters, eight feet (8') or longer (not to exceed sixty percent (60%) of the store front length), centered on the sign band above the store front. All letters in the sign must be a single uniform height, except signs that utilize upper and lower case letters may use a maximum of two (2) letter heights (one height for upper case and another height for lower case). Maximum area of signage is ten percent (10%) of the surface area of the exterior wall included in the tenant's leased space or one hundred (100) square feet, whichever is less. Note local ordinance may be more restrictive.

Undercanopy Sign: (8" x 48") double faced blade sign in front of Tenant's front entry door.

#### Construction:

Exterior Parapet Sign: Internally illuminated with single thirteen (13) millimeter neon tubing. Faces are to be one of the following four (4) colors:

- |                     |       |
|---------------------|-------|
| - Rohm & Haas Blue  | #2051 |
| - Rohm & Haas Green | #2108 |
| - Rohm & Haas White | #7328 |
| - Rohm & Haas Red   | #2415 |

with 1/8" translucent acrylic with one inch (1") bronze jewelrite trim. Letters are to be aluminum channel letters, bronze alloy #313-.040, 5" aluminum returns colored bronze as manufactured by S.A.F., Atlanta, Georgia, or approved alternate. Individual letters are to be attached directly to the exterior building facade. Letters are to be attached using concealed, stainless or aluminum fasteners to the existing facade, which may or may not be recessed into the building facade. The signage must be centered horizontally and vertically. All penetrations in the channel need to be sealed to maintain building integrity.

Undercanopy Sign: (20" x 48") double faced sandblasted redwood sign shall be chain hung centered on the canopy and tenant frontage of Tenant's space, perpendicular to the store. Redwood shall be 3" clear heart stock with 1/2" raised lettering. Shape of sign shall conform to that shown on the attached Detail Sheet. Copy, letter style and colors are to meet the same requirements as the Exterior Parapet Sign.

#### Style of Letters:

Style: Cheltenham Bold Upper and lower case, or other style if expressly approved by Landlord.

#### Size: Exterior Parapet Sign:

- 36" maximum height
- 3 1/2" maximum stroke
- 5" depth

#### Approval:

Landlord or its Architect has sole approval authority for signage. The use of logos, symbols and trademarks are prohibited unless prior written approval is given by the Landlord.

KUB

Sign Wording:

Restricted to Tenant's operating business name ("fictitious name") or legal name. No brand or products sold are allowed unless they comply with the foregoing sentence. The logo is subject to the same requirements as set forth above.

Electric:

Electric service to signs shall be on Tenant's meter and include an automatic timer to illuminate the sign. Landlord to provide J-box and conduit, Tenant to provide actual hard wiring and timer for the sign. Tenant to provide wiring to meet voltage requirements of sign. Hours of operation are a minimum of 6:00pm to 10:00pm daily.

It is agreed that Tenant will install its exterior sign on the exterior parapet centered in the marquee sign band above its store front in accordance with the following criteria:

- (1) Tenant shall, within thirty (30) days of the execution of the lease, to which this Exhibit "C - 1" is attached, submit before fabrication, three (3) copies of Tenant's proposed exterior sign drawings to Landlord for approval. These drawings must be to scale with an elevation of the store front indicating the sign's location, size, style of lettering, material, type of illumination, installation details, color selections, and logo design. One (1) plan must be in color.
- (2) Tenant is required to obtain any and all permits for signs prior to commencing work and copy Landlord on all permits and governmental approvals.
- (3) Tenant shall be responsible for the fulfillment of all requirements and specifications.
- (4) Tenant shall be responsible for the operations of its sign contractor.
- (5) All penetrations of the building structure by the sign contractor, required for sign installation, shall be sealed in watertight condition and shall be patched to match adjacent finish. The sign contractor shall leave the Premises free of debris after installation.
- (6) Landlord's general contractor is authorized to correct all work by Tenant's sign contractor at the expense of Tenant.
- (7) The Landlord has sole approval authority for signage. All sign drawings and permits must be submitted to Landlord for approval prior to manufacture and installation. Tenant shall immediately correct any deviation from the approved drawing upon Landlord's request. Failure to correct any deviation within five (5) days of Landlord's request will be corrected by Landlord at Tenant's expense.
- (8) In case of conflict between approved sign drawings and local ordinance, local ordinance shall prevail and the approved sign drawings shall be modified as needed to comply. The foregoing notwithstanding, Tenant's sign shall not be larger in height, width and/or length than the criteria set forth herein above.
- (9) Tenant shall maintain any and all signs, as may be approved by Landlord, in good condition and repair at all times, Landlord reserving the right to do so at Tenant's expense if Tenant fails to do so after five (5) days notice from Landlord.
- (10) Upon removal of the sign or vacating the Premises, Tenant shall remove the sign and restore fascia to original condition, at Tenant's expense and to Landlord's satisfaction.

Tenant agrees to the following:

- a) Vertical copy or signs projecting perpendicular to the building are prohibited. Banners (including temporary banners) are prohibited unless tenant obtains written authorization from Landlord.
- b) Painted, flashing, animated, audible, revolving or other signs that create the illusion of animation are prohibited.
- c) Exposed bulb signs are prohibited.
- d) Window signs of any nature must have Landlord's approval. Window neon signs are prohibited.
- e) Exposed junction boxes, lamps, tubing, conduits, or neon crossovers of any type are prohibited.
- f) Each Tenant who has a non-customer door receiving merchandise may uniformly apply Tenant's name and address on said door, in a location as directed by Landlord and in two inch (2") high standard block letters, color as approved by Landlord.
- g) If required by the US Postal Service, Tenant may install on their store front, only the number for the street address of a size, type, color, and location determined by Landlord.

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**EXHIBIT "C-2"**  
**LANDLORD'S WORK**

**A. STRUCTURE**

1. The structural, columns, beams, floor and roof shall be constructed with noncombustible materials, and the floor and roof shall be designed to carry live loads in accordance with the governing building codes. Roofs will be an insulated roof deck construction. Exterior walls above grade will be concrete block and or suitable structural members, with ties for anchorage of exterior veneers such as brick, stone, and other suitable materials. If any loads are applied to the roof or structural areas of the building which, in the opinion of the Landlord shall be considered excessive, any costs for handling these structural changes shall be borne by the Tenant. Tenant must submit drawings and load calculations for Landlord's review and written approval.

**B. STORE FRONTS**

1. Variations: Any variation to the existing storefront design may be proposed and installed by the Tenant. All costs associated with the variation from the development's standard storefront shall be borne by the Tenant. The proposed variation must be approved by the Landlord in writing.

**C. INTERIOR FINISH**

1. Floors: All floors will be concrete with a troweled class B finish.
2. Ceilings: A suspended 2x4 ceiling will be installed with non-directional fizzured acoustical tile. Finished ceiling Height will be at 10' unless otherwise noted by Landlord. At Landlord's option, any stock area designated by Tenant, may either have finished acoustical ceiling or exposed bar joist.
3. Walls: Interior surfaces of walls enclosing leased areas will be finished with drywall, taped, and finished to a paint ready condition. Stock areas and toilet rooms which have concrete block partitions will be in paint ready condition.
4. Toilet Rooms: One ADA toilet room facility is provided with accessible elements required by local and federal Guidelines. Specific components include, but are not limited to, water closets, sinks, grab bars, mirrors, paper product dispensers and a 6 gallon water heater.

**D. PARKING AREAS AND WALKS**

1. Surface: Parking areas will be concrete, or asphalt over crushed rock base as designed by Landlord's architect.
2. Lighting: Parking areas, walks and service areas will be lighted. The average illumination on parking areas will be 1 foot candle per square foot.

**E. ELECTRICAL WORK**

1. Public and service areas: Electrical circuits and fixtures in common service areas and public areas will be provided by Landlord.
2. Leased space: Landlord will furnish duplex wall outlets every 20 feet on perimeter walls and/or provide existing outlets in working order. Landlord will provide 4 tube, 2x4 troffer florescent lay-in fixtures with prismatic lenses every 96 square feet in the leased space. Landlord will provide one ¾" conduit to the storefront for Tenant signage. Landlord will provide emergency lighting and exit signs as required by local code. Landlord will provide ¾" conduit from telephone closure to telephone panel at rear of space.
3. Service: Landlord will provide a 100 amp, 3 phase, 120/208 volt service to the leased space. Additional power Requirements of the Tenant shall be paid for by the Tenant. Any changes to the power system by the Tenant must be approved by the Landlord in writing and subject to inspection by local building authorities. The cost of permits, inspections and fees will be paid by the Tenant.

**F. HEATING AND AIR CONDITIONING**

1. Heating: Landlord will provide a heating system which will supply approximately 20,000 BTU's per ton of air conditioning, and an air conditioning system that provides 1 ton of cooling for every 350 sq. ft. of leased space.

**G. OTHER UTILITIES**

1. Water: Toilet rooms will be supplied by a ¾" water service. Waste lines connected to public sewers are brought into the leased space. Fixtures and accessories required by local code will be provided by Landlord. All other requirements, i.e. drains, sewer connections and backflow preventors, above and beyond the toilet room are to be paid for by Tenant.

Any changes to the water system by the Tenant must be approved by the Landlord in writing, and is subject to inspection by local building authorities. The cost of permits, inspections and fees will be paid by Tenant.

2. If natural gas is available to the development, it may be made available to the leased premises at the sole discretion of the Landlord.
3. Metering: Utility services provided by the Landlord will be metered during the Tenant's possession of the leased Space. The Tenant is responsible for the payment of utility services metered for the leased space and will participate in the payment of utility services in common area maintenance billing.

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**EXHIBIT D**

**ABSOLUTE UNCONDITIONAL GUARANTY AGREEMENT**

KNOW ALL MEN BY THESE PRESENCE: That,

THIS Absolute Unconditional Guaranty (the "Guaranty") is executed and delivered this 29<sup>th</sup> day of July, 2009 by Kimberly V. Blatt, and Dr. Singh and \_\_\_\_\_, (herein collectively, ("Guarantor") in favor of Regency Centers, L.P., a Delaware Limited Partnership, ("Landlord").

**RECITALS:**

Verve Spa and Salon, a corporation organized and existing under the laws of the State of Ohio ("Tenant"), and Landlord are party to that certain Lease Agreement dated \_\_\_\_\_, 2004 (the "Agreement").

In order to induce Landlord to enter into the Agreement, Guarantor agreed to execute and deliver to Landlord this Guaranty.

Guarantor acknowledges that Landlord would not have entered into the Agreement without the execution and delivery by Guarantor of this Guaranty.

NOW THEREFORE, in consideration of the Premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by Guarantor, Guarantor hereby agrees in favor of Landlord (and Landlord's successors and assigns) as follows:

Guarantor absolutely, unconditionally and irrevocably guarantees the prompt and complete payment and performance when due, whether by acceleration or otherwise, of all obligations, liabilities and covenants, whether now in existence or hereafter arising, of Tenant to Landlord, and arising under the Agreement, including without limitation all amounts due to the Landlord as Rent or otherwise under the Agreement (the "Obligations"). The Guarantor hereby agrees to pay and/or perform punctually, upon written demand by the Landlord, each such Obligation which is not paid or performed as and when due and payable by the Tenant, in like manner as such amount is due from the Tenant. For purposes hereof, the Obligations shall be performed and/or due and payable when due and payable under the terms of the Agreement notwithstanding the fact that the collection or enforcement thereof as against the Tenant may be stayed or enjoined under Title 11 of the United States Code or similar applicable law. This Guaranty is one of payment and not of collection.

The Guarantor's obligations under this Guaranty are absolute and unconditional and shall not be affected by the genuineness, validity, regularity or enforceability of the Obligations or the Agreement, or by any other circumstance relating to the Obligations or the Agreement which might otherwise constitute a legal or equitable discharge of or defense of a guarantor or surety. Guarantor hereby irrevocably waives any and all suretyship defenses, defenses that could be asserted by Tenant (except payment) and all other defenses that would otherwise be available to Guarantor. All payments by the Guarantor pursuant to this Guaranty shall be made without setoff. The Landlord shall not be obligated to file any claim relating to the Obligations in the event that the Tenant becomes subject to a bankruptcy, reorganization or similar proceeding, and the failure of the Landlord so to file shall not affect the Guarantor's obligations under this Guaranty. The Guarantor irrevocably waives any right to require the Landlord to pursue any other remedy in the Landlord's power whatsoever, whether against the Tenant or any other obligor principally or secondarily obligated with respect to the Obligations. The Guarantor irrevocably waives any defense arising by reason of any disability, bankruptcy, reorganization or similar proceeding involving the Tenant. In the event that any payment in respect of any Obligations is rescinded or must otherwise be returned for any reason whatsoever, the Guarantor shall remain liable under this Guaranty in respect of such Obligations as if such payment had not been made.

The Guarantor agrees that the Landlord may at any time and from time to time, either before or after the maturity thereof, without notice to or further consent of the Guarantor, extend the time of payment of, or performance of, or renew, any of the Obligations, and may also make any agreement with the Tenant or with any other party to or person liable on any of the Obligations, or interested therein, for the extension, renewal, payment, compromise, waiver, discharge or release thereof, in whole or in part, or for any amendment or modification of the terms thereof or of the Agreement or any other agreement between the Landlord and the Tenant or any such other party or person, without in any way impairing, releasing or affecting the liabilities of the Guarantor under this Guaranty.

The Guarantor will not exercise any rights which it may acquire by way of subrogation until all of the Obligations to Landlord shall have been indefeasibly paid in full, or performed in its entirety. Any amount paid to the Guarantor in violation of the preceding sentence shall be held in trust for the benefit of the Landlord and shall forthwith be paid to the Landlord to be credited and applied to the Obligations, whether matured or unmatured. Guarantor hereby subordinates any and all liabilities and indebtedness to Guarantor to the prior indefeasible payment in full of the Obligations.

This Guaranty shall remain in full force and effect and be binding upon the Guarantor, its successors and assigns until all of the Obligations have been satisfied in full and the Agreement shall have been terminated or fully performed. This Guaranty may not be modified, discharged or terminated orally or in

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any manner other than by an agreement in writing signed by Landlord and Guarantor. This is a continuing Guaranty relating to all Obligations, including any arising during any holdover term or arising under transactions renewing or extending the term of the Agreement, changing the terms of any Obligations, or creating new or additional Obligations after prior Obligations have in whole or in part been satisfied, regardless of any lapse of time. If any of the present or future Obligations are guaranteed by persons, partnerships, corporations or other entities in addition to the Guarantor, the death, release or discharge, in whole or in part, or the bankruptcy, liquidation or dissolution of one or more of them shall not discharge or affect the liabilities of the Guarantor under this Guaranty. The obligations of the Guarantor hereunder shall be additional to, and not in substitution for, any security or other guarantee or indemnity at any time existing in respect of Tenant's obligations, liabilities and covenants under the Agreement.

No failure on the part of the Landlord to exercise, and no delay in exercising, any right, remedy or power under this Guaranty shall operate as a waiver thereof, nor shall any single or partial exercise by the Landlord of any right, remedy or power under this Guaranty preclude any other or future exercise of any right, remedy or power under this Guaranty. Each and every right, remedy and power granted to the Landlord under this Guaranty or allowed it by law or by the Agreement or any other agreement shall be cumulative and not exclusive of any other, and may be exercised by the Landlord from time to time.

The Guarantor hereby waives notice of acceptance of this Guaranty and notice of any obligation or liability to which it may apply, and waives presentment, demand for payment, protest, notice of dishonor or non-payment of any such obligation or liability, suit or the taking of other action by Landlord against, and all other notices whatsoever to, the Tenant, the Guarantor or others.

Landlord may at any time and from time to time without notice to or consent of the Guarantor and without impairing or releasing the obligations of the Guarantor hereunder: (a) take or fail to take any action of any kind in respect of any security for any obligation, covenant or liability of the Tenant to Landlord, (b) exercise or refrain from exercising any rights against the Tenant or others, (c) compromise or subordinate any obligation or liability of the Tenant to Landlord including any security therefor, (d) consent to the assignment by Tenant of its interest in the Agreement, or (e) consent to any other matter or thing under or relating to the Agreement. Guarantor waives trial by jury in any action, proceeding or counterclaim, involving any matters whatsoever arising out of or in any way connected with the Guaranty. Guarantor agrees to reimburse Landlord for the costs and attorney's fees incurred by reason of Landlord having to enforce this Guaranty.

Guarantor represents and warrants to Landlord that (a) the Agreement has been duly authorized, executed and delivered by Tenant and is a legal, valid and binding instrument enforceable against Tenant in accordance with its terms, and (b) this Guaranty has been duly authorized, executed and delivered by Guarantor and is a legal, valid and binding instrument enforceable against Guarantor in accordance with its terms.

The Guarantor may not assign its rights nor delegate its obligations under this Guaranty, in whole or in part, without prior written consent of the Landlord, and any purported assignment or delegation absent such consent is void. This Guaranty shall remain in full force and effect notwithstanding (a) any assignment or transfer by Tenant of its interest in the Agreement (in which case this Guaranty shall apply, from and after such assignment or transfer, to all of the obligations, liabilities and covenants of the assignee or transferee under the Agreement), or (b) any assignment or transfer by Landlord of its interest in the Agreement (in which case Guarantor's obligations under this Guaranty shall inure to the benefit of Landlord's assignee or transferee), in each case irrespective of whether Guarantor has notice of or consents to any such assignment or transfer.

THIS GUARANTY SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF OHIO WITHOUT GIVING EFFECT TO PRINCIPLES OF CONFLICTS OF LAW. GUARANTOR AND LANDLORD JOINTLY AND SEVERALLY AGREE TO THE EXCLUSIVE JURISDICTION OF COURTS LOCATED IN THE STATE OF OHIO, UNITED STATES OF AMERICA, OVER ANY DISPUTES ARISING OR RELATING TO THIS GUARANTY.

IN WITNESS WHEREOF, this Guaranty has been executed and delivered as of the date and year first above written.

Signed, sealed and delivered  
in the presence of:

[Signature]  
Witness

[Signature]  
Kimberly V. Blatt

[Signature]  
Witness

Address: 3302 Phoenix Avenue, Cincinnati,  
Ohio 45211  
S.S. #: 357-52-2986

[Signature]  
Witness  
[Signature]  
Witness

[Signature]  
Dr. Navkaran Singh  


\_\_\_\_\_  
Witness

\_\_\_\_\_  
Address: \_\_\_\_\_  
S.S. #: \_\_\_\_\_

\_\_\_\_\_  
Witness

Guarantor acknowledges its address and will notify a Landlord of any changes thereto.

## EXHIBIT E

### REQUIREMENTS AND RESTRICTIONS

Tenant:

1. will not, without Landlord's consent, conduct or permit to be conducted any auction, fire, bankruptcy or going-out-of-business sales, or similar type sale, in connection with the Premises; provided, however, that this provision shall not restrict the absolute freedom of Tenant to determine its own selling prices nor shall it preclude the conduct of periodic seasonal, promotional or clearance sales;
2. will not use or permit the use of any apparatus for sound reproduction or transmission or of any musical instrument in such manner that the sounds so reproduced, transmitted or produced shall be audible beyond the interior of the Premises; will not utilize an advertising medium within the Shopping Center which can be seen, heard or experienced outside the Premises, including, but not limited to, flashing lights, searchlights, loudspeakers, phonographs, radio or television; will not display, paint or cause to be displayed, painted or placed, any handbills, bumper stickers or other advertising devices on any vehicle parked in the parking area of the Shopping Center; will not distribute, or cause to be distributed, in the Shopping Center any handbills or other advertising devices; and will not conduct or permit any activities that might constitute a nuisance;
3. will keep all mechanical apparatus free of vibration and noise which may be transmitted beyond the confines of the Premises; will not cause or permit strong, unusual, offensive or objectionable noise, odors, fumes, dust or vapors to emanate or be dispelled from the Premises; will not burn trash or store or permit accumulations of any trash, garbage, rubbish or other refuse outside of the Premises except in compactors or other receptacles approved by Landlord;
4. will not load or permit the loading or unloading of merchandise, supplies or other property, nor ship, nor receive, outside the area and entrance designated therefor by Landlord from time to time; will not permit the parking or standing, outside of said area, of trucks, trailers or other vehicles or equipment engaged in such loading or unloading in a manner to interfere with the use of any Common Areas or any pedestrian or vehicular use and good shopping center practice; will use its best efforts to complete or cause to be completed all deliveries, loading, unloading and services to the Premises prior to 10:00 a.m. each day;
5. will not paint or decorate any part of the exterior of the Premises, or change the architectural treatment thereof, or install any visible protective devices such as burglar bars or security shutters or window tinting, without first obtaining Landlord's written approval; and will remove promptly upon order of Landlord any paint, decoration or protective device which has been applied to or installed upon the exterior of the Premises without Landlord's prior approval, or take such other action with reference thereto as Landlord may direct;
6. will keep the inside and outside of all glass in the doors and windows of the Premises clean; will not place or maintain any merchandise, vending machines or other articles in the vestibule or entry of the Premises, on the footwalks adjacent thereto or elsewhere on the exterior thereof; will maintain the Premises at its own expense in a clean, orderly and sanitary condition and free of insects, rodents, vermin and other pests; and will keep refuse in proper containers on the interior of the Premises until removed from the Premises;
7. will comply (at its sole cost and expense) with all laws, rules, regulations, orders and guidelines now or hereafter in force relating to or affecting the use, occupancy, alteration or improvement of the Premises ("Laws") and will not use or permit the use of any portion of the Premises for any unlawful purpose or in violation of any recorded covenants, conditions and restrictions affecting the Shopping Center;
8. will not place, permit or maintain on the exterior walls or roof of the Premises any sign, advertising matter, decoration, lettering, insignia, emblems, trademark or descriptive material (herein called "Signs") and will not permit any Signs to remain or be placed on any window or door of the Premises unless the same have been approved in writing by Landlord; and will maintain any and all Signs as may be approved in good condition and repair at all times, Landlord reserving the right to do so at Tenant's expense if Tenant fails to do so after five (5) days' notice from Landlord; Tenant acknowledges that it will install its approved Signs within thirty (30) days from date of possession of the Premises;
9. will keep the display windows in the Premises electrically lighted and any and all electric signs lighted during all other periods that a majority of tenants are open for business in the Shopping Center; and
10. will not use the sidewalks adjacent to the Premises, or any other space outside of the Premises, for the sale or display of any merchandise or for other business, occupation or undertaking.

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EXHIBIT F

TENANT'S IMPROVEMENTS

In no event shall Tenant make or cause to be made any penetration through any roof, floor or exterior or corridor wall without the prior written consent of Landlord. Should Landlord consent to Tenant's penetration through the roof, Tenant shall use Landlord's roofing contractor to repair or re-flash Tenant's roofing penetrations. Tenant shall deliver to Landlord a certification letter from this roofing contractor stating that all roof repairs and penetrations have been made in compliance with the roof warranty. This certification is required in order for Landlord to release any Tenant Allowance monies. Tenant shall be responsible for any and all damages resulting from any alteration, addition or change Tenant makes, whether or not Landlord's consent therefor was obtained. Any and all alterations, additions and changes made to the Premises which are consented to by Landlord shall be made under the supervision of a licensed architect or licensed structural engineer and in accordance with plans and specifications approved in writing by the Landlord before the commencement of the work and all necessary governmental approvals and permits, which approvals and permits Tenant shall obtain at its sole expense. All contractors and subcontractors utilized by Tenant shall be subject to Landlord's prior written approval. All work with respect to any alterations, additions and changes must be done in a good and workmanlike manner and diligently prosecuted to completion to the end that the Premises shall at all times be a complete unit except during the period of the work.

**COMPLIANCE WITH LAWS.** Any permitted changes, alterations and additions made by Tenant shall be performed strictly in accordance with applicable laws, rules, regulations, building codes and architectural review boards relating thereto including, without limitation, the provisions of Title III of the Americans with Disabilities Act of 1990. Tenant shall have the work performed (i) in such a manner so as not to obstruct the access to the Premises or to the premises of any other tenant or obstruct the Common Areas, (ii) so as not to interfere with the occupancy of any other tenant of the Shopping Center and (iii) at such times, in such manner and subject to such rules and regulations as Landlord may from time to time reasonably designate. Throughout the performance of Tenant's alterations, Tenant shall obtain, or cause its contractors to obtain, workers compensation insurance and commercial general liability insurance in form and substance satisfactory to Landlord and name Landlord as an additional insured thereunder.

**INSURANCE AND RECONSTRUCTION.** In the event Tenant shall make any alterations, additions or changes to the Premises, none of such alterations, additions or changes need be insured by Landlord under such insurance as Landlord may carry upon the Landlord's Building, nor shall Landlord be required under any provisions of this Lease to reconstruct or reinstall any such alterations, additions or changes in the event of casualty loss, it being understood and agreed that all such alterations, additions or changes shall be insured by Tenant pursuant to Article 11 and reconstructed by Tenant (at Tenant's sole expense) in the event of a casualty loss pursuant to Article 12.

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# EXHIBIT G

## FORM UCC1

### UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)				
B. SEND ACKNOWLEDGMENT TO: (Name and Address)				

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names				
OR				
1a. ORGANIZATION'S NAME				
1b. INDIVIDUAL'S LAST NAME				
1c. MAILING ADDRESS				
1d. TYPE OF ORGANIZATION				
1e. JURISDICTION OF ORGANIZATION				
1f. ORGANIZATIONAL ID #, if any				
2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names				
OR				
2a. ORGANIZATION'S NAME				
2b. INDIVIDUAL'S LAST NAME				
2c. MAILING ADDRESS				
2d. TYPE OF ORGANIZATION				
2e. JURISDICTION OF ORGANIZATION				
2f. ORGANIZATIONAL ID #, if any				
3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)				
OR				
3a. ORGANIZATION'S NAME				
3b. INDIVIDUAL'S LAST NAME				
3c. MAILING ADDRESS				
4. This FINANCING STATEMENT covers the following collateral:				

5. ALTERNATIVE DESIGNATION (if applicable):		<input type="checkbox"/> LESSEE/LESSOR		<input type="checkbox"/> CONSIGNEE/CONSIGNOR		<input type="checkbox"/> BAILEE/BAILOR		<input type="checkbox"/> SELLER/BUYER	
		<input type="checkbox"/> AG. LIEN		<input type="checkbox"/> NON-UCC FILING					
6. This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL		7. Check to REQUEST SEARCH REPORT(S) on Debtor(s)		<input type="checkbox"/> All Debtors					
<input type="checkbox"/> ESTATE RECORDS. Attach Addendum		(if applicable) (optional) (ADDITIONAL FEE)		<input type="checkbox"/> Debtor 1		<input type="checkbox"/> Debtor 2			
8. OPTIONAL FILER REFERENCE DATA									

FILING OFFICE COPY — NATIONAL UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)

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# Instructions for UCC Financing Statement (Form UCC1)

Please type or laser-print this form. Be sure it is completely legible. Read all instructions, especially Instruction 1; correct Debtor name is crucial.

Follow instructions completely.

Fill in form very carefully, mistakes may have important legal consequences. If you have questions, consult your attorney. Filing office cannot give legal advice. Do not insert anything in the open space in the upper portion of this form; it is reserved for filing office use.

When properly completed, send Filing Office Copy, with required fee, to filing office. If you want an acknowledgment, complete item 8 and, if filing in a filing office that returns an acknowledgment copy furnished by filer, you may also send Acknowledgment Copy, otherwise detach. If you want to make a search request, complete item 7 (after reading instruction 7 below) and send Search Report Copy, otherwise detach. Always detach Debtor and Secured Party Copies.

If you need to use attachments, you are encouraged to use either AMENDMENT Addendum (Form UCC1Ad) or Amendment Additional Party (Form UCC1AP).

A. To assist filing offices that might wish to communicate with filer, filer may provide information in item A. This item is optional.

B. Complete item 8 if you want an acknowledgment sent to you. If filing in a filing office that returns an acknowledgment copy furnished by filer, present simultaneously with this form a carbon or other copy of this form for use as an acknowledgment copy.

1 Debtor name: Enter only one Debtor name in item 1, an organization's name (1a) or an individual's name (1b). Enter Debtor's exact legal name. Don't abbreviate.

1a Organization Debtor. "Organization" means an entity having a legal identity separate from its owner. A partnership is an organization; a sole proprietorship is not an organization, even if it does business under a trade name. If Debtor is a partnership, enter exact full legal name of partnership; you need not enter names of partners as additional Debtors. If Debtor is a registered organization (e.g., corporation, limited partnership, limited liability company), it is advisable to examine Debtor's current filed charter documents to determine Debtor's correct name, organization type, and jurisdiction of organization.

1b Individual Debtor. "Individual" means a natural person; this includes a sole proprietorship, whether or not operating under a trade name. Don't use initials (Mr., Mrs., Ms.). Use suffix only for titles of lineage (Jr., Sr., III) and not for other suffixes or titles (e.g., M.D.). Use married woman's personal name (Mary Smith, not Mrs. John Smith). Enter individual Debtor's family name (surname) in Last Name box, first given name in First Name box, and all additional given names in Middle Name box. For both organization and individual Debtors, Don't use Debtor's trade name, DBA, AKA, FKA, Division name, etc. in place of or combined with Debtor's legal name; you may add such other names as additional Debtors if you wish (but this is neither required nor recommended).

1c An address is always required for the Debtor named in 1a or 1b.

1d Reserved for Financing Statements to be filed in North Dakota or South Dakota only: If the Financing Statement is to be filed in North Dakota or South Dakota, the Debtor's taxpayer identification number (tax ID), social security number or employer identification number must be placed in this box.

1e 1g "Additional information re organization Debtor" is always required. Type of organization and jurisdiction of organization as well as Debtor's exact legal name can be determined from Debtor's current filed charter document. Organizational ID #, if any, is assigned by the agency where the charter document was filed; this is different from tax ID #: this should be entered preceded by the 2-character U.S. Postal identification of state of organization if one of the United States (e.g., CA12345, for a California corporation whose organizational ID # is 12345); if agency does not assign organizational ID #, check box in item 1g indicating "none".

Note: If Debtor is a trust or a trustee acting with respect to property held in trust, enter Debtor's name in item 1 and attach Addendum (Form UCC1Ad) and check appropriate box in item 1f. If Debtor is a decedent's estate, enter name of deceased individual in item 1b and attach Addendum (Form UCC1Ad) and check appropriate box in item 1f. If Debtor is a transferee under or the Financing Statement is filed in connection with a Manufactured-Home Transaction or a Public Finance Transaction as defined in applicable Commercial Code, attach Addendum (Form UCC1Ad) and check appropriate box in item 1f.

2 If an additional Debtor is included, complete item 2, determine and format per instruction 1. To include further additional Debtors, attach either Addendum (Form UCC1Ad) or Additional Party (Form UCC1AP) and follow instruction 1 for determining and formatting additional names.

3 Enter information for Secured Party or Total Assignee, determined and formatted per instruction 1. To include further additional Secured Parties, attach either Addendum (Form UCC1Ad) or Additional Party (Form UCC1AP) and follow instruction 1 for determining and formatting additional names. If there has been a total assignment of the Secured Party's interest prior to filing this form, you may enter (1) either Assignor SP's name and address in item 3 and file an Amendment (Form UCC2) (see item 5 of that form); or (2) enter Total Assignee's name and address in item 3 and, if you wish, also attaching Addendum (Form UCC1Ad) giving Assignor SP's name and address (item 1f).

4 Use item 4 to indicate the collateral covered by this Financing Statement; if space in item 4 is insufficient, put the entire collateral description or continuation of the collateral description on either Addendum (Form UCC1Ad) or other attached additional page(s).

5 If filer desires (at filer's option) to use titles of lessee and lessor, or consignee and consignor, or seller and buyer (in the case of accounts or chattel paper), or bailee and bailor instead of Debtor and Secured Party, check the appropriate box in item 5. If this is an agricultural lien (as defined in applicable Commercial Code) filing or is otherwise not a UCC security interest filing (e.g., a tax lien, judgment lien, etc.), check the appropriate box in item 5, complete items 1-7 as applicable and attach any other items required under other law.

6 If this Financing Statement is filed as a future filing or if the collateral consists of timber to be cut or as-extracted collateral, complete items 1-5, check the box in item 6, and complete the required information (items 13, 14 and/or 15) on Addendum (Form UCC1Ad).

7 This item is optional. Check appropriate box in item 7 to request Search Reports on all or some of the Debtors named in this Financing Statement. The Report will list all Financing Statements on file against the designated Debtor on the date of the Report, including this Financing Statement. There is an additional fee for each Report. If you have checked a box in item 7, file Search Report Copy together with Filing Office Copy (and Acknowledgment Copy). Note: Not all states do searches and not all states will honor a search request made via the form; some states require a separate request form.

8 This item is optional and is for filer's use only. For filer's convenience of reference, filer may enter in item 8 any identifying information (e.g., Secured Party's loan number, law firm file number, Debtor's name or other identification, state in which item is being filed, etc.) that filer may find useful.

regencycenters

April 3, 2012

VIA FEDERAL EXPRESS

Avalon Salon and Spa, LLC.  
21563 Fox Road  
Guilford, Indiana 47022  
Attn: Lisa Williamson

With a copy to:

Avalon Salon and Spa, LLC.  
3848 Paxton Road  
Cincinnati, Ohio 45209  
Attn: Navakaran Singh

Re: **HYDE PARK PLAZA  
CINCINNATI, OH**

That certain lease originally by and between Regency Centers, L.P., a Delaware limited partnership ("Landlord"), and Verve Spa and Salon, Inc., an Ohio corporation, (predecessor to "Tenant"), Kim Blatt, Dr. Navkaran Singh, Scott Williamson and Lisa Williamson, as individuals jointly and severally (herein collectively called "Guarantor") dated July 28, 2004 covering certain premises (unit 26 f/k/a 3848 Paxton Road, Cincinnati, OH 45209 and consisting of approximately 4,801 square feet) in Hyde Park Plaza located in Cincinnati, OH (the "Premises", which lease was and modified by a First Modification to Lease Agreement dated January 18, 2005, further modified by a Second Modification to Lease Agreement dated December 5, 2005 and assigned to Tenant by an Assignment and Assumption Agreement dated December 5, 2005 and further modified by a Third Modification to Lease Agreement date April 1, 2010 (herein collectively the "Lease").

Dear Lisa:

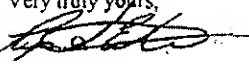
Please be advised that the above referenced Lease expired on its own terms as of midnight on March 31, 2012 ("Termination Date"). Based on the foregoing, should Tenant remain in possession of the leased premises after the Termination Date, it shall be deemed to be a month to month tenant subject to the provisions of Ohio law.

As a month to month tenant, Article 23.2 of the Lease requires Tenant to pay its monthly installment of Minimum Annual Rent at an amount computed at the rate of double the Minimum Annual Rent for that period plus applicable sales tax and all other charges due under the Lease. As a gesture of good faith and as substantiation of Landlord's desire to have this Lease renewed in the future, Landlord shall only require Tenant to pay an amount computed at one hundred percent (100%) of the Minimum Annual Rent for that period plus applicable sales tax and all other charges due under the Lease. Beginning April 1, 2012, Tenant shall pay Minimum Annual Rent in the amount of \$7,041.47 per month plus applicable sales tax and all other charges due under the Lease. Landlord reserves the right at anytime to make adjustments to the Minimum Rent, including requiring Tenant to pay Minimum Annual Rent in an amount computed at the rate of double the Minimum Annual Rent for that period plus applicable sales tax and all other charges due under the Lease. It being understood that Landlord's rights under Article 23.2 of the Lease and all [other] provisions of the Lease remain in full force and effect. This month to month tenancy may be terminated at any time by Landlord giving thirty (30) days written notice prior to the end of any monthly period.

**LANDLORD SHALL BE IN CONTACT WITH YOU SHORTLY TO COORDINATE THE INSTALLATION OF A SUITABLE SIGN ON THE PREMISES STATING THE PREMISES ARE AVAILABLE TO LET.**

Should you have any questions, concerns or a desire to discuss the options available for extending the Lease, please do not hesitate to contact me directly at (513) 686-1631.

Very truly yours,

  
Ryan Ertel  
Senior Leasing Agent

Cc: Lease Administration  
Property Management



8044 Montgomery Road  
Suite 520  
Cincinnati, OH 45236

P 513 686 1600  
F 513 891 2467  
RegencyCenters.com



# Regency Centers.

November 28, 2012

VIA FEDERAL EXPRESS

Avalon Salon and Spa, LLC,  
21563 Fox Road  
Guilford, Indiana 47022  
Attn: Lisa Williamson

Re: **HYDE PARK PLAZA  
CINCINNATI, OH**

That certain lease originally by and between Regency Centers, L.P., a Delaware limited partnership ("Landlord"), and Verve Spa and Salon, Inc., an Ohio corporation, (predecessor to "Tenant"), Kim Blatt, Dr. Navkaran Singh, Scott Williamson and Lisa Williamson, as individuals jointly and severally (herein collectively called "Guarantor") dated July 28, 2004 covering certain premises (unit 26 f/k/a 3848 Paxton Road, Cincinnati, OH 45209 and consisting of approximately 4,801 square feet) in Hyde Park Plaza located in Cincinnati, OH (the "Premises", which lease was and modified by a First Modification to Lease Agreement dated January 18, 2005, further modified by a Second Modification to Lease Agreement dated December 5, 2005, and assigned to Tenant by an Assignment and Assumption Agreement dated December 5, 2005 and further modified by a Third Modification To Lease Agreement dated April, 1, 2010 (herein collectively the "Lease").

Dear Lisa:

Please be advised that the above referenced Lease expired on its own terms as of midnight on March 31, 2012 ("Termination Date"). Tenant decided to remain in possession of the leased premises after the Termination Date and was deemed a month to month tenant subject to the provisions of Ohio law.

This month to month tenancy is hereby being terminated with Landlord's thirty (30) days written notice per Ohio law.

Tenant shall deliver up and surrender to Landlord possession of the Premises on or before 11:59 PM on December 31, 2012, broom clean, free from debris, in good order, condition and state of repair (except as may be Landlord's obligation under this Lease and ordinary wear and tear), and shall deliver the keys to Landlord at 8044 Montgomery Rd. Suite 520 Cincinnati, OH 45236.

# Regency Centers.

Should you fail to surrender the premises on or before 11:59 PM on December 31, 2012, you will be subject to immediate eviction and removal, and shall be liable for all claims, judgments, suits, causes of action, damages, losses, liabilities and expenses (including attorneys' fees and court costs) resulting from such failure to surrender, including, without limitation, any claim made by any succeeding tenant or damages suffered by Landlord as a result of the loss of rent or interference with a new prospective lease based thereon.

Thank you for your attention to this matter.

Sincerely,



Marc Niese  
Property Manager

Cc:

Lease Administration

File

Avalon Salon and Spa, LLC.  
3848 Paxton Road  
Cincinnati, Ohio 45209  
Attn: Lisa Williamson

Avalon Salon and Spa, LLC.,  
5091 Village Drive  
Cincinnati, Ohio 45244  
Attn: Navkaran Singh

**NOTICE TO LEAVE THE PREMISES**

TO: Avalon Salon at Hyde Park Plaza  
3848 Paxton Avenue  
Cincinnati, Ohio 45209

and all other occupants

You are hereby notified that within three (3) days from the date of this NOTICE TO LEAVE, you must leave the premises you now occupy and which you have rented from us, situated and described as follows:

3848 Paxton Avenue  
Cincinnati, Ohio 45209

The grounds for this Notice to Leave are as follows (check all that apply):

- ☐ Nonpayment of Rent
- ☐ Unauthorized Occupant(s)
- ☐ Pet(s) in Violation of Lease Agreement
- ☒ Other Grounds: Lease Termination Dated 11/28/12

Served by way of

- ☐ Certified mail, return receipt requested
- ☒ Handed to the tenant
- ☐ Secured on the front door of the premises

Served by THOMAS HOWARD, Agent for REGENCY CENTERS, L.P, this  
2<sup>ND</sup> day of January, 2013.

**“YOU ARE BEING ASKED TO LEAVE THE PREMISES.  
IF YOU DO NOT LEAVE, AN EVICTION ACTION MAY  
BE INITIATED AGAINST YOU. IF YOU ARE IN DOBT  
REGARDING YOUR LEGAL RIGHTS AND  
OBLIGATIONS AS A TENANT, IT IS RECOMMENDED  
THAT YOU SEEK LEGAL ASSISTANCE.”**

### NOTICE TO LEAVE THE PREMISES

TO: Avalon Salon at Hyde Park Plaza  
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- ☒ Other Grounds: Lease Termination Dated 11/28/12

Served by way of

- ☐ Certified mail, return receipt requested
- ☒ Handed to the tenant
- ☐ Secured on the front door of the premises

Served by Thomas Howard, Agent for REGENCY CENTERS, LP, this  
2<sup>nd</sup> day of January, 2013.

**“YOU ARE BEING ASKED TO LEAVE THE PREMISES.  
IF YOU DO NOT LEAVE, AN EVICTION ACTION MAY  
BE INITIATED AGAINST YOU. IF YOU ARE IN DOBT  
REGARDING YOUR LEGAL RIGHTS AND  
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